

Protection (CBP), the Department has preliminarily determined that the record evidence indicates that Terphane currently had no reviewable entries during the POR. In addition, the Department finds that it is not appropriate to rescind the review with respect to Terphane but, rather, to complete the review with respect to them and issue appropriate instructions to CBP based on the final results of this review, as is our recent past practice.<sup>3</sup>

#### Assessment Rates

The Department clarified its "automatic assessment" regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which these companies did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

#### Comments

Interested parties are invited to comment on these preliminary results and submit written arguments or case briefs within 30 days after the date of publication of this notice, unless otherwise notified by the Department.<sup>4</sup> Parties are reminded that written comments or case briefs are not the place for submitting new factual material. Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later.<sup>5</sup> Parties who submit case or rebuttal briefs are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Any interested party who wishes to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for

Import Administration within 30 days after the day of publication of this notice. A request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.<sup>6</sup> Issues raised in the hearing will be limited to those raised in case briefs. The Department will issue the final results of administrative review, including the results of our analysis of issues raised in any briefs, within 90 days after the date on which the preliminary results were issued, unless the deadline for the final results is extended.<sup>7</sup>

#### Notification to Importers

This notice serves as a preliminary reminder to the importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is published in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(f).

Dated: August 2, 2013.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Implementation of New Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program

**AGENCY:** National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice; implementation of competitive research program.

**SUMMARY:** NOAA announces the implementation, under the authority of the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act) of

2012, of a new competitive science program to ensure the long-term sustainability of the Gulf of Mexico ecosystem and the communities that depend on it.

**FOR FURTHER INFORMATION CONTACT:** Russ Beard, Acting Program Director, Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program, National Centers for Coastal Ocean Science, NOS.

*Email:*

*NOAARestoreScience@noaa.gov.*

*Phone:* 228.688.2936.

*Mailing Address:* 1021 Balch Boulevard, Suite 1003, Stennis Space Center, MS 39529.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act) of 2012 authorized the establishment of a science, observation, monitoring and technology program on ecosystem restoration (RESTORE Act Science Program). Under Section 1604 of the RESTORE Act, the National Oceanic and Atmospheric Administration (NOAA) has been designated with responsibilities to establish the Program which is to be funded by 2.5% of the Gulf Coast Ecosystem Restoration Trust Fund plus twenty-five percent of the Trust Fund accrued interest.

##### II. Program Administration

The Program will be housed within the National Ocean Service's National Center for Coastal Ocean Science (NCCOS). NCCOS's experience running competitive science programs focused on pressing coastal and ocean issues, its experience working in the Gulf of Mexico, and its demonstrated ability to transfer research results to resource managers makes it a logical home for the Program. In addition, NOAA established an Executive Oversight Board consisting of senior executives representing each of the NOAA Line Offices, as well as a senior executive from the US Fish and Wildlife Service, to oversee continuing development and implementation of the program, provide strategic and programmatic guidance to a Program Support Team and eventual approval of the Science and Engagement Plans developed by the Support Team. The Program and the Executive Oversight Board will consult with the RESTORE Act Council, science advisory bodies that may be established pursuant to the Act, and other entities as deemed appropriate by NOAA or the Department of Commerce.

<sup>3</sup> See, e.g., *Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke the Order (in Part); 2011-2012*, 78 FR 15686 (March 12, 2013) and the accompanying Decision Memorandum at 7 to 8.

<sup>4</sup> See 19 CFR 351.309(c)(ii).

<sup>5</sup> See 19 CFR 351.309(d).

<sup>6</sup> See 19 CFR 351.310(c).

<sup>7</sup> See 19 CFR 351.214(i).

### III. Guiding Principles, Goals and Focus Areas

The RESTORE Act Science Program, including development of a Science Plan, will be guided by a suite of principles, including:

1. Requiring an ecosystem approach, considering the entirety and connectivity of the system;
2. Integrating and building on existing research, monitoring, and modeling efforts and plans (e.g., NRDA science, Gulf of Mexico States' Centers of Excellence, Gulf of Mexico Research Initiative, Gulf Coast Ecosystem Restoration Strategy and associated Science Needs Assessment);
3. Leveraging partnerships established among federal, state, academics, and NGOs, and develop new partnerships as appropriate;
4. Working within a management and policy framework developed with other entities in the Gulf, including USFWS, the Commission, and FMC; and
5. Designing a scalable and modular approach that adapts to funding availability, defines the unique roles and responsibilities of NOAA and avoids duplication with federal, state, academic, and NGO activities or NRDA science efforts.

Numerous documents have been developed in recent years that identify science needs in the Gulf of Mexico. Many of these documents were produced with extensive stakeholder input and in consultation with resource managers throughout the Gulf states. In development of the Goals for this program these documents were referenced to ensure high priority and recurring needs were captured. The DRAFT goals presented here were constructed to be responsive to Section 1604 of the Act and consistent with science needs identified previously in the region. The RESTORE Act Science Program will enable the collection and dissemination of scientific information to better inform decision making related to the following DRAFT goals:

1. Support Healthy, Diverse and Resilient Coastal Habitats
2. Support Healthy, Diverse and Sustainable Living Coastal and Marine Resources
3. Support Sustainably Managed Fisheries
4. Support Healthy and Well-managed Offshore Environments
5. Support Healthy, Sustainable, and Resilient Coastal Communities able to adapt to a changing environment.

Focusing the activities supported by this program will help ensure that the science, observation, monitoring, and technology advancement are

coordinated, complement existing and future science efforts supported and implemented collaboratively, and address in an integrated and holistic manner the critical knowledge needed for Gulf of Mexico ecosystem restoration and management. The Focus areas do not define specific science needs, but rather encompass a suite of approaches of scientific study which, when taken together, will meet the desired outcome of improved holistic understanding of the Gulf of Mexico ecosystem. The focus areas are:

- Periodic "State of health" assessments for the Gulf, incorporating environmental, socio-economic, and human well-being information
- Integrated analysis and synthesis of data—Synthesis and analysis of existing and new data to understand interconnections, inform ecosystem perspective, and produce policy-relevant information
- Ecosystem processes, functioning and connectivity through integrative field/laboratory efforts to provide foundational information to support restoration planning and implementation and fisheries science
- Holistic approaches to observing and monitoring that encompass the next generation of observing and monitoring technologies, including those for fisheries and other natural resources, and data integration tools focused on the observing needs in the Gulf of Mexico

### IV. Program Consultation and Coordination

Section 1604 of the RESTORE Act specifies that NOAA shall coordinate with the US Fish and Wildlife Service, and with "other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the Centers of Excellence." The Act also requires that NOAA consult with the Gulf of Mexico Fishery Management Council and Gulf States Marine Fisheries Commission "in carrying out the program". Although such a provision is not included in the guidance to the Centers of Excellence under Section 1605, or in the criminal settlement agreements funding science programs for the National Academy of Sciences, these and other groups also have acknowledged the need for coordination.

The USFWS was an active partner during the program development process and they continue to engage fully on the Executive Oversight Board and on engagement and science planning working groups. During the program development, NOAA reached

out to both the Regional Gulf of Mexico Fishery Management Council and the Gulf States Marine Fisheries Commission for their input and feedback to the process. NOAA will continue direct consultation with both the Commission and the Council as it develops and executes the program.

Additionally, several other groups have or are anticipated to receive funding as a result of the Deepwater Horizon oil spill. NOAA believes that it is imperative that all recipients of settlement funds derived from the spill money coordinate science activities to maximize the benefit to the environment and people of the Gulf of Mexico. As the RESTORE Act Science Program is implemented, NOAA will continue to actively engage partners, stakeholders and the public.

### V. Next Steps

Development of the Program will be guided by application of the language of the Act to the science needs of the region as described by resource managers, researchers, residents, and other stakeholders. Given that the amount of funds to be made available and the science priorities of other programs established under the Act have yet to be defined, NOAA envisions that its science investments will evolve over time, adapting to changing information and knowledge. As noted previously, considerable work to identify science needs has been conducted in the region and provides an opportune starting point to frame an investment strategy. With additional engagement of partners in the region, NOAA will develop a science plan that seeks to achieve a holistic understanding of the Gulf of Mexico ecosystem that will contribute significantly to the science needed for the long-term sustainability of the Gulf of Mexico ecosystem, including its fisheries, and help inform restoration and management efforts.

NOAA is following a series of steps to implement the Program including:

- Conducting a review and assessment of science needs to support sustainability of the Gulf of Mexico ecosystem that have been determined previously;
- Developing a Science Plan framework that describes the program and lists a set of draft Goals for consideration to assist engagement with partners and stakeholders;
- Engaging partners to identify and prioritize ecosystem and management science requirements and gaps, including but not limited to coordination with other Trust Fund recipients;

- Identifying strategic early investments to assist the integration and synthesis of science priorities and to address known priority gaps;

- Conducting competitive processes for issuing awards for addressing the science needs;

- Continuing refinement of Science plan in coordination with partners through the life of the Program.

NOAA anticipates being able to issue a focused Federal Funding Opportunity (FFO) sometime in Fall/Winter, 2013, contingent upon the regulations governing the Trust Fund being finalized. The FFO will be targeted towards focused areas of investment derived from reviews of existing plans and engagement efforts with Gulf stakeholders being conducted this summer. This FFO will be announced through the **Federal Register** and *grants.gov*. Future FFOs will be announced on *grants.gov*.

## VI. Additional Information

Additional information on the Program, the draft science framework, and engagement opportunities can be found on the Program Web site: [restoreactscienceprogram.noaa.gov](http://restoreactscienceprogram.noaa.gov).

Dated: August 12, 2013.

**Mary C. Erickson,**

Director, National Centers for Coastal Ocean Science, National Ocean Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 130122061-3061-01]

RIN 0648-XC463

### Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Whale Shark as Threatened or Endangered Under the Endangered Species Act

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

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We (NMFS) announce a 90-day finding on a petition to list the whale shark (*Rhincodon typus*) as threatened or endangered under the Endangered Species Act (ESA). We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

**ADDRESSES:** Copies of the petition and related materials are available upon request from the Director, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910, or online at: <http://www.nmfs.noaa.gov/pr/species/negative.htm>.

**FOR FURTHER INFORMATION CONTACT:** Lisa Manning, Office of Protected Resources, 301-427-8466.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 21, 2012, we received a petition from the WildEarth Guardians to list the whale shark (*Rhincodon typus*) as threatened or endangered under the ESA and to designate critical habitat under the ESA. Copies of this petition are available from us (see **ADDRESSES**).

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a “positive 90-day finding”), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a “may be warranted” finding at the 90-day stage does not prejudice the outcome of the status review.

Under the ESA, a listing determination may address a “species,” which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NOAA-U.S. Fish and Wildlife Service (USFWS) policy clarifies the agencies’ interpretation of the phrase “distinct population segment” for the purposes of listing, delisting, and reclassifying a species under the ESA (“DPS Policy”; 61 FR 4722; February 7, 1996). A

species, subspecies, or DPS is “endangered” if it is in danger of extinction throughout all or a significant portion of its range, and “threatened” if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, the determination of whether a species is threatened or endangered shall be based on any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species’ existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define “substantial information” in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day stage, we evaluate the petitioner’s request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner’s sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates