

1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: March 23, 2001.

**Ira W. Leighton,**

*Acting Regional Administrator, U.S. EPA—  
New England.*

[FR Doc. 01–12708 Filed 5–21–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL–6947–2]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Environmental Protection Agency (EPA) proposes to delete Operable Unit 2 (OU2) of the California Gulch Superfund Site, located in Leadville, Colorado, from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution and Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). This action is being taken because EPA, with concurrence from the State of Colorado Department of Public Health and Environment (CDPHE), has determined that all appropriate response actions have been taken and that no further response at the Site is appropriate.

A detailed rationale for this Proposal to Delete is set forth in the direct final rule which can be found in the Rules and Regulations section of this **Federal Register**. The direct final rule is being published because EPA views this deletion action as a noncontroversial revision and anticipates no significant adverse or critical comments. If no significant adverse or critical comments are received, no further activity is contemplated. If EPA receives significant adverse or critical comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Comments concerning this action must be received by EPA by June 21, 2001.

**ADDRESSES:** Comments may be mailed to Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR–SR, 999 18th Street, Suite 300, Denver, Colorado 80202. Telephone: (303) 312–6552.

*Information Repositories:*

Comprehensive information on the California Gulch Site is available through the EPA, Region 8 public docket, which is located at the EPA, Region 8 Superfund Records Center. The address for the Region 8 Superfund Records Center is: U.S. Environmental Protection Agency, Region 8, Superfund Records Center, 999 18th Street, 5th Floor Denver, Colorado 80202, Telephone (303) 312–6473.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Thomas (EPR–SR), Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR–SR, 999 18th Street, Suite 300, Denver, Colorado 80202. Telephone: (303) 312–6552.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is located in the Rules and Regulations section of this **Federal Register**.

**Authority:** 33 U.S.C. 1312(c)(2); 42 U.S.C. 9601–9657, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351, E.O. 12580, 52 FR 2923; 3 CFR 1987 Comp., p.193.

Dated: February 12, 2001.

**Jack W. McGraw,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 01–12711 Filed 5–21–01; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 226

[Docket No. 010501108–1108–01; I.D.  
040401A]

#### Endangered and Threatened Species; Finding for a Petition to Designate Critical Habitat for the Bering Sea Stock of Bowhead Whales

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

**ACTION:** Notice of receipt of petition and petition finding.

**SUMMARY:** The National Marine Fisheries Service (NMFS) announces the

receipt of a petition to designate critical habitat for the Western Arctic stock of bowhead whales, *Balaena mysticetus*, under the Endangered Species Act of 1973 (ESA), as amended. NMFS has determined that the petition presents substantial scientific information indicating that this action may be warranted, and is soliciting public comment and information on the petition.

**DATES:** NMFS is soliciting public comment on the action through August 20, 2001.

**ADDRESSES:** Written comments concerning this petition should be submitted to Donna Wieting, Chief, Marine Mammal Division, Office of Protected Resources, Silver Spring, MD, 20910. Comments will not be accepted if submitted via e-mail or internet.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brad Smith, NMFS, Alaska Regional Office, 222 West 7th Avenue, Anchorage, Alaska 99517, telephone (907) 271–5006 or fax (907) 271–3030, or Mr. Michael Payne, NMFS, Alaska Regional Office, P.O. Box 21668, Juneau, Alaska 99802, telephone (907) 586–7235 or fax (907) 586–7012.

**SUPPLEMENTARY INFORMATION:**

#### Background

On February 22, 2000, the Center for Biological Diversity, Berkeley, CA, and the Marine Biodiversity Protection Center, Canyon, CA, petitioned NMFS to designate critical habitat for the Western Arctic stock of bowhead whales. The area petitioned for critical habitat includes the Beaufort Sea off Alaska's North Slope between Point Barrow and the Canadian border, from mean high tide to approximately 170 kilometers offshore. The petition was accepted under 5 U.S.C 553 (e).

The bowhead whale was listed as endangered on June 2, 1970, prior to the addition of critical habitat requirements in the ESA, on November 10, 1978. NMFS must evaluate petitions to designate critical habitat for pre-1978 listed species pursuant to 5 U.S.C. 553 (e) under the Administrative Procedure Act (APA). 5 U.S.C. 553 (e) provides that “each agency shall give an interested person the right to petition for the issuance, amendment or repeal of a rule”.

NMFS initially responded to the petition on December 14, 2000, with a letter that, at that time, deferred determination on whether the subject action may be warranted pending completion of several on-going studies or scheduled research efforts. NMFS has now determined that the petition presents substantial information

indicating that the designation may be warranted. A copy of the petition is available upon request (see **ADDRESSES**).

NMFS will conduct a review to determine if the petitioned action to designate critical habitat is warranted. The determination will be made on the best available scientific data and the economic impacts of any such designation. A notice of finding will be published in the **Federal Register** and, if the action is warranted, a regulation to implement the action will be proposed.

Bowhead whale stocks were severely depleted by commercial whaling in previous centuries. Estimates of historic bowhead abundance vary but today the Western Arctic stock is estimated at approximately 8000 whales. Many individuals in this population migrate annually from wintering grounds in the Bering Sea north into the Beaufort Sea where the whales spend the summer. It is this summering area that the petitioners recommend for critical habitat designation.

Bowhead whales encounter potential threats from several human activities in the area including subsistence harvest, fishery interactions and industrial development. A subsistence harvest of bowhead whales continues today with Alaska and Canada Natives taking an average of 49 whales (including those struck and lost) each year between 1994 and 1996. The subsistence harvest is considered sustainable and the population of the Western Arctic stock has increased in recent years. No records of a bowhead whale mortality related to fishery interaction exist but the whales are known to occasionally become entangled in fishing gear.

The petitioners assert that action is needed to halt the degradation of bowhead habitat in the Beaufort sea. The petitioners cite the future proliferation of oil and gas development and associated industrial activity as the main threat to the bowheads' habitat. Further, they cite increases in noise, vessel traffic, seismic exploration, drilling and construction as having the potential to elevate threats to bowhead whales in the region. The petitioners assert that such activity also brings a greater risk of pollution from oil spills, waste (toxic and non-toxic) and noise proliferation.

NMFS intends to hold public meetings on this petition and will inform the petitioners and public as to their location and time in a following notice. NMFS will also keep the petitioners and public informed as to the progress of the review. At this time NMFS is soliciting information and comments concerning the petition to

ensure that the review is complete and is based on the best available information. We request that the information and comments be accompanied by (1) supporting documentation such as maps, biological references or reprints of pertinent publications and (2) the name, address and associations, institution, or business that the person represents.

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

Dated: May 17, 2001.

**William T. Hogarth,**

*Acting Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 01-12876 Filed 5-21-01; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[I.D. 050901C]

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

**ACTION:** Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

**SUMMARY:** NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast Multispecies Fishery Management Plan (FMP) and within the scope of earlier analyses of the impacts. However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Regional Administrator intends to issue an EFP that would allow one federally permitted groundfish vessel to conduct a composite mesh selectivity study with codend covers having a mesh size smaller than authorized under current regulations to target mixed-groundfish species, primarily yellowtail flounder,

winter flounder (blackback), summer flounder (fluke), American plaice (dab) and Atlantic cod. The EFP may also allow access to seasonal area closures in the Gulf of Maine (GOM). The Manomet Center for Conservation Sciences (Manomet) submitted an EFP application to determine the selective efficiency of experimental codends and intends to correlate fish behavior with these findings. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments on this document must be received on or before June 6, 2001.

**ADDRESSES:** Written comments should be sent to Patricia Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on EFP Proposal". Comments may also be sent via facsimile (fax) to (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Allison Ferreira, Fishery Management Specialist, 978-281-9103.

**SUPPLEMENTARY INFORMATION:** Manomet submitted an industry cooperative proposal on April 20, 2001, for one EFP to conduct a composite codend mesh selectivity study to address bycatch and discard of incidental catch and sublegal sized fish in the mixed-groundfish fisheries of the Northeast. The study would be conducted in that portion of the GOM/Georges Bank Regulated Mesh Area extending east from the New Hampshire shoreline at 43° N. lat./70.75° W. long. to 43° N. lat./69° W. long., then following the 69° W. long. line north to the 44° N. lat./69° W. long. point, and then extending west along the 44° N. lat. to the Maine coastline (44° N. lat./69.154° W. long.). The permanent Western GOM closure would not be included in the study area.

This industry collaborative study involves Manomet, the Massachusetts Division of Marine Fisheries, and the Maine Department of Marine Resources as co-principal investigators, and proposes to field test two composite mesh combinations against two industry-standard codend mesh sizes as follows: (1) Two composite codends, one made of 6.5-inch (16.51-cm) square mesh on the top half and 6.5-inch (16.51-cm) diamond mesh on the bottom half, and the other made of 6.5-inch (16.51-cm) square mesh on the top half and 6-inch (15.24-cm) diamond mesh on the bottom half; and (2) two industry-standard codends, one made entirely of