

contacts after June 21, 2004: Linda Garwood, EPA Region 7, ARTD/STOP, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551-7268; John Balkenbush, Chief, Tanks Section, Hazardous Waste Program, Air and Land Protection Division, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102, (573) 526-0971.

Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action proposes to authorize state requirements for the purpose of RCRA section 9004 and would impose no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed action proposes to authorize pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this proposed action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to authorize state requirements as part of the state underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA. This proposed action also is not

subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

Under RCRA section 9004, EPA grants approval of a state's program as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state program application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the proposed action in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This document is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 16, 2004.

James B. Gulliford,

Regional Administrator, Region 7.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-A144

Endangered and Threatened Wildlife and Plants; Notice of a Public Hearing for the Proposed Listing of the Southwest Alaska Distinct Population Segment of the Northern Sea Otter as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; announcement of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) will hold a public hearing on the proposed listing of the Southwest Alaska Distinct Population Segment of the Northern Sea Otter (*Enhydra lutris kenyoni*) as threatened.

DATES: One public hearing will be held on May 19, 2004, in Kodiak, Alaska, from 7 p.m. to 10 p.m. The public is invited to participate and to provide oral testimony. The public hearing will be preceded by an informational meeting from 5 p.m. to 7 p.m. Teleconference facilities will be available for members of the public who wish to participate by teleconference.

ADDRESSES: The public hearing will be held at the Best Western Hotel, 236 Rezanof Drive, Kodiak, Alaska 99615. To participate by teleconference call toll-free 888/391-1373. The Teleconference Leader is Ms. Sue Detwiler and the Passcode is Sea Otter. **FOR FURTHER INFORMATION CONTACT:** Douglas Burn, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503 (telephone 907/786-3800; facsimile 907/786-3816)

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We solicit comments on our proposal to list the southwest Alaska distinct population segment (DPS) of the northern sea otter (69 FR 6600, February 11, 2004). Of particular interest to us are comments concerning:

- (1) Biological, commercial trade, or any other relevant data concerning any threat (or lack thereof) to the DPS;
- (2) The location of any additional populations of this DPS;
- (3) The specific physical and biological features to consider, and specific areas that meet the definition of critical habitat and that should or should not be considered for critical

habitat designation as provided by section 4 of the Endangered Species Act;

(4) Additional information concerning the range, distribution, and size of this DPS; and

(5) Current or planned activities in the subject area and their possible impacts on this DPS.

Background

On February 11, 2004, we published in the **Federal Register** (69 FR 6600) a proposed rule to list the southwest Alaska DPS of the northern sea otter as threatened under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). The comment period for the proposed listing closes on June 10, 2004. We are announcing a public hearing to allow all interested parties to submit oral comments on the proposed rule. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in our final determination.

Section 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from the Alaska Sea Otter and Steller Sea Lion Commission, we are holding a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** section.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of the statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to us.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact M. Ellen Baier at 907/786-3800, as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date. Information regarding our proposal is available in alternative formats upon request.

Author

The primary author of this notice is Susan Detwiler, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503 (telephone 907/786-3868; facsimile 907/786-3350).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 29, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04-10282 Filed 4-30-04; 4:48 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 040427134-4134-01; I.D. 042004D]

RIN 0648-AR64

Fisheries of the Exclusive Economic Zone Off Alaska; Fish Meal

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to allow processors to use the offal from Pacific salmon (salmon) and Pacific halibut (halibut) intended for the Prohibited Species Donation (PSD) program for commercial products including fish meal, fish oil, and bone meal. This action is necessary to change current regulations which prohibit the sale of any parts of salmon or halibut that are processed under the PSD program. This action is intended to promote the objectives of the PSD program and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments on the proposed rule must be received on or before June 4, 2004.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, Attn: Lori Durall. Comments may be submitted by:

- Mail to NMFS, P.O. Box 21668, Juneau, AK 99802-1668;
- Hand delivery to the Federal Building, Room 420A, 709 West 9th Street, Juneau, Alaska;
- FAX to 907-586-7557;
- E-mail to PSCW-0648-AR64@noaa.gov and include in the subject line of the e-mail comment the document identifier: 0648-AR64; or

• Website to the Federal eRulemaking Portal at

<http://www.regulations.gov> and following the instructions at that site for submitting comments.

Copies of the Categorical Exclusion and Regulatory Impact Review prepared for this action, and the Environmental Assessment prepared for Amendments 26/29 and Amendments 50/50, may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7228, or jay.ginter@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Area (BSAI) under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI FMP). NMFS manages the groundfish fishery in the exclusive economic zone of the Gulf of Alaska (GOA) under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the BSAI and GOA FMPs under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations implementing the BSAI and GOA FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Background

Prohibited species are defined at § 679.2 to include all species of salmon, steelhead trout, halibut, Pacific herring, king crab and Tanner crab caught by a vessel regulated under part 679 while fishing for groundfish in the BSAI or GOA.

All prohibited species catch (PSC) is to be avoided, but if caught while fishing for groundfish, prohibited species must be returned to the sea with a minimum of injury, under regulations at § 679.21.

Some groundfish fishing vessels are incapable of sorting their catch at sea, and deliver their entire catch to an onshore processor or a processor vessel. Sorting and discarding of prohibited species occurs at delivery. To reduce the amount of edible protein discarded in that process, the Council initially recommended the PSD program for salmon, which was implemented by NMFS in 1996. The program was expanded to include halibut in 1997. Regulations implementing the PSD program are codified at § 679.26.

The PSD program allows PSC salmon and halibut to be processed and distributed through tax-exempt hunger relief organizations. The implementing regulations prohibit authorized