

receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(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: July 15, 2009.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E9–17564 Filed 7–24–09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 226

[Docket No. 0907081108–91119–01]

RIN 0648–XP68

#### Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 90–day Finding for a Petition to Revise Designated Critical Habitat for Elkhorn and Staghorn Corals

**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 elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals' critical habitat under the Endangered Species Act (ESA) of 1973, as amended. Elkhorn and staghorn corals are listed as

threatened throughout their ranges and have designated critical habitat consisting of substrate of suitable quality and availability to support larval settlement and recruitment and the reattachment and recruitment of asexual fragments in water depths shallower than 30 meters in four areas in Florida, Puerto Rico, and the U.S. Virgin Islands. The petition seeks to extend the northern boundary of designated critical habitat in the Florida area to the Lake Worth Inlet, approximately 15.5 miles (24.9 km) north of the current boundary at Boynton Beach Inlet. We find that the petition presents substantial scientific information that the revision may be warranted. We are soliciting information and comments pertaining to this request for revision of critical habitat.

**DATES:** Written comments and information related to this petition finding or the petitioned action must be received [see **ADDRESSES**] by August 26, 2009.

**ADDRESSES:** You may submit comments, identified by [RIN 0648–XP68], 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: 727–824–5309, attention: Jennifer Moore; or (3) mail: addressed to Jennifer Moore, National Marine Fisheries Service, Southeast Regional Office, Protected Resources Division, 263 13th Avenue South, Saint Petersburg, FL, 33701.

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 fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Interested persons may obtain more information about critical habitat designated for elkhorn and staghorn corals online at the NMFS Southeast Regional Office website: <http://sero.nmfs.noaa.gov/pr/esa/acropora.htm>.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Moore by phone 727–824–5312, fax 727–824–5309, or e-mail [jennifer.moore@noaa.gov](mailto:jennifer.moore@noaa.gov); or Marta Nammack by phone 301–713–1401 or e-mail [marta.nammack@noaa.gov](mailto:marta.nammack@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 currently 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.”

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 of Commerce 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. Section 4(b)(3)(D)(i) of the ESA requires us to make a 90–day 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. Our regulations provide further that, in making a 90–day finding on a petition to revise critical habitat, we shall consider whether a petition includes substantial information indicating that: (i) areas contain physical and biological features essential to, and that may require special management to provide for, the conservation of the species; or (ii) areas designated as critical habitat do not contain resources essential to, or do not require special management to provide for, the conservation of the species. 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 January 6, 2009, we received a petition from Palm Beach County Reef Rescue (the Petitioner) to revise elkhorn and staghorn corals' critical habitat (PBCRR, 2009). Currently designated critical habitat consists of substrate of suitable quality and availability to support larval settlement and recruitment and the reattachment and recruitment of asexual fragments in water depths shallower than 30 meters in four areas in Florida, Puerto Rico, and the U.S. Virgin Islands (73 FR 72210; November 26, 2008). The Petitioner requests that we extend the northern boundary of the Florida area to the Lake Worth Inlet, approximately 15.5 miles (24.9 km) north of the current boundary at Boynton Beach Inlet.

The petition contains information on the location of staghorn coral colonies north of Boynton Beach Inlet. This location was verified by the petitioner on December 20, 2008. The petition includes information about the geology of the Florida Reef Tract, suggesting that

the features essential to elkhorn and staghorn corals exist north of Boynton Beach Inlet. The petition contains information on the genetic diversity of staghorn coral. Finally, the Petitioner suggests that the waters of Palm Beach County represent a potential thermal refuge for staghorn coral.

#### 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 petition presents substantial scientific information indicating that the requested revision to designated critical habitat for elkhorn and staghorn corals may be warranted. We will review the information provided by the Petitioner, comments received from the public (requested below), and the best scientific information available before making a finding of how we intend to proceed with the requested revision by January 6, 2010.

We solicit information and comments on whether the petitioned area qualifies as critical habitat. Further, we solicit information on the potential economic, national security, and other relevant impacts that may arise from the requested revision of critical habitat.

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

The Office of Management and Budget 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.

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

Dated: July 21, 2009.

**James W. Balsiger,**

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

[FR Doc. E9-17838 Filed 7-24-09; 8:45 am]

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