DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224
[Docket No. 100322160–0161–01]
RIN 0648–XV10

Endangered and Threatened Wildlife; Notice of 90–Day Finding on a Petition to List the Bumphead Parrotfish as Threatened or Endangered and Designate Critical Habitat Under the Endangered Species Act (ESA)

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

ACTION: 90–day petition finding; request for information.

SUMMARY: We (NMFS) announce a 90–day finding on a petition to list the bumphead parrotfish (Bolbometopon muricatum) as threatened or endangered and designate critical habitat under the ESA. We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, we initiate a status review of the bumphead parrotfish to determine if listing under the ESA is warranted. To ensure this status review is comprehensive, we solicit scientific and commercial information regarding this species.

DATES: Information and comments must be submitted to NMFS by May 3, 2010.

ADDRESSES: You may submit comments, information, or data, identified by the Regulation Identifier Number (RIN) 0648–XV10, by any of the following methods:


Mail: Alecia Van Atta, Assistant Regional Administrator, Protected Resources Division, NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

Instructions: All comments received are a part of the public record and will generally be posted to http://www.regulations.gov without change. Comments will be posted for public viewing after the comment period has closed. All Personal Identifying Information (e.g., 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. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. Interested persons may obtain a copy of the petition from the above address or online from the NMFS website: http://www.f political.noaa.gov/PRD/prd_esa_section_4.html

FOR FURTHER INFORMATION CONTACT: Patrick Opay, NMFS, Pacific Islands Region, (808) 944–2242 or Dwayne Meadows, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2010, we received a petition from WildEarth Guardians to list the bumphead parrotfish as threatened or endangered under the ESA. The petitioner also requested that critical habitat be designated for this species concurrent with listing under the ESA. The petition asserts that overfishing is a significant threat to the bumphead parrotfish and that this species is declining across its range and is nearly eliminated from many areas. The petition also asserts that degradation of its coral habitat through coral bleaching and ocean acidification is a threat to this species, as coral is its primary food source. The petition asserts that biological traits (e.g., slow maturation and low reproductive rates), shrinking remnant populations and range reductions, the effects from increasing human populations in the species range, and inadequate regulatory protection are subjecting the bumphead parrotfish to extinction in the foreseeable future. The petition briefly summarizes the description, taxonomy, natural history, distribution, and status for the petitioned species.

The bumphead parrotfish is the largest of the parrotfish species and has a wide range. It can be found throughout the Indo-Pacific including the Red Sea and East Africa to the Line Islands and Samoa, north to Taiwan and the Yaeyama Islands (Japan), south to the Great Barrier Reef and New Caledonia, to Palau, Caroline, Marshall, and the Mariana Islands in Micronesia. In the United States it occurs in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Pacific Remote Island Areas. It is not found in Hawaii or Johnston Atoll.

The petition states that this species is classified as vulnerable by the World Conservation Union (IUCN). The IUCN defines vulnerable as a species subjecting the bumphead parrotfish populations have been declining throughout their range and placed this species on our Species of Concern list in 2004.

ESA Statutory Provisions and Policy Considerations

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 (Secretary) make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted (see 16 U.S.C. 1533(b)(3)(A)). Joint ESA-implementing regulations issued by NMFS and U.S. Fish and Wildlife Service (50 CFR 424.14(b)) define “substantial information” in this context as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.

In making a finding on a petition to list a species, the Secretary must consider whether the petition: “(i) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (ii) contains a 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; (iii) provides information regarding the status of the species over all or a significant portion of its range; and (iv) 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)). To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the Federal Register. When it is found that substantial information indicating that the petitioned action may be warranted is presented in the petition, we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, within 1 year of receipt of the petition, we shall conclude the review with a finding as to whether or not the petitioned action is warranted. Because we are concluding the 12–month stage is based on a more thorough review of the available...
information, as compared to the narrow scope of the 90–day stage, a “may be warranted” finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a “species,” which is defined to include taxonomic species as well as subspecies and, for any vertebrate species which interbreeds when mature, a distinct population segment (DPS) (16 U.S.C. 1532(16)). The bumphead parrotfish is classified as a taxonomic species. The petitioner requested consideration of the entire taxonomic species. A species or subspecies 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)).

Biology of the Bumphead Parrotfish

This species is slow growing and long-lived (up to 40 years), with delayed reproduction and low replenishment rates (Choat and Robertson, 2002; Hamilton, 2003). Bumphead parrotfish live in coral reef habitats from 3 to 160 feet (1–50 m) depth (Donaldson and Dulvy, 2004). They occur in barrier and fringing reefs during the day, but rest in caves or shallow sandy lagoon flats at night (Donaldson and Dulvy, 2004). Juveniles use seagrass beds inside lagoons while adults are more commonly found in outer lagoons and seaward reefs. This species sleeps in large groups, making them highly vulnerable to exploitation by spearfishers and netters at night (Myers, 1999; Donaldson and Dulvy, 2004). The bumphead parrotfish is primarily a corallivore, but also eats benthic algae. They use their large head to ram corals and the negative effects of coral bleaching and ocean acidification present a significant threat to the bumphead parrotfish throughout its range (through degradation or loss of its food source and habitat). The petition cites examples of coral bleaching events in American Samoa (citing Aeby et al., 2008), the Pamyra Atoll and Kingman Reef (citing Clarke et al., 2008), Jarvis Island (citing Id.), Howland Island (citing Id.), the Marshall Islands (citing Berger et al., 2008), Indonesia (citing Habibi et al., 2007), Micronesia (citing George et al., 2008), Palau (citing Marino et al., 2008), and Guam (citing Burdick et al., 2008). The petition asserts that the increased frequency and intensity of extreme weather events due to climate change harm coral reefs and thus may negatively impact bumphead parrotfish. The petition further asserts that increasing human populations within the range of the bumphead parrotfish present additional threats to the species through increased fishing pressure and impact on coral habitat.

The petition asserts that overutilization through commercial and subsistence overfishing is a significant threat to the bumphead parrotfish, claiming it is one of the most vulnerable species to fishing pressure, citing Donaldson and Dulvy (2004) and NMFS (2009). It is particularly susceptible to spear and net fishing, as this fish sleeps in large groups at night. One of the main threats to this species is overexploitation, especially the taking of sleeping adults at night with spears or nets. The petition asserts that this
species is not adequately protected by federal or state laws or policies to prevent its endangerment or extinction. The petition asserts that more or better protective measures are needed for large females, and that a moratorium on commercial fishing and export, gear restrictions, and blanket protection for the species is necessary.

The petition also asserts that the bumphead parrotfish is nearly extirpated from many areas within its range and that small population sizes and narrowing range may increase the likelihood of extinction through random events, or loss of genetic variability over time and a concomitant inability to cope with environmental change.

Petition Finding

We have reviewed the petition, the literature cited in the petition, and other literature and information available in our files. Based on that literature and information, we find that the petition meets the aforementioned requirements of the ESA regulations under 50 CFR 424.14(b)(2). The petition (i) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (ii) contains a 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; (iii) provides information regarding the status of the species over all or a significant portion of its range; and (iv) is accompanied by the appropriate supporting documentation in the form of citations to journals that are readily accessible. This information would lead a reasonable person to believe that the measure proposed in the petition may be warranted. Therefore, we determine that the requested listing actions may be warranted.

Information Solicited

Information on Status of the Species

As a result of this finding, we commence a status review on the bumphead parrotfish to determine whether listing this species under the ESA is warranted. We intend that any final action resulting from this review be as accurate and as effective as possible. Therefore, we open a 30-day public comment period to solicit information from the public, government agencies, the scientific community, industry, and any other interested parties on the status of this species throughout its range, including:

(1) Historical and current distribution and abundance of the species throughout its range (U.S. and foreign waters);
(2) Historic and current condition of the species and its habitat;
(3) Population trends;
(4) The effects of climate change on this species and the coral reef ecosystems on which it depends over the short- and long-term;
(5) The level of current fishing pressure and known effects of such fishing;
(6) The effects of other threats, including but not limited to, coastal development, coastal point source pollution, agricultural and land use practices, disease, predation, reef fishing, physical damage from boats and anchors, marine debris, and aquatic invasive species, on the distribution and abundance of coral habitat important to the species over the short- and long-term;
(7) The coral species consumed by this species and the status of each those corals; and
(8) Management programs for conservation of this species, including mitigation measures related to any of the threats listed above.

We request that all data and information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. Please send any comments to the ADDRESSES listed above. We will base our findings on a review of the best scientific and commercial information available, including all information received during the public comment period.

Information Regarding Potential Critical Habitat

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after conducting a review of the status of a species and after taking into account efforts being made to protect the species (16 U.S.C. 1153(b)(1)(A)). We evaluate the status of the species and identify factors that have led to its current status. We then assess conservation measures to determine whether they ameliorate a species' extinction risk (50 CFR 424.11(f)). In judging the efficacy of conservation efforts, we consider the following: the substantive, protective, and conservation elements of such efforts; the degree of certainty that such efforts will reliably be implemented; the degree of certainty that such efforts will be effective in furthering the conservation of the species; and the presence of monitoring provisions to determine effectiveness of recovery efforts and that permit adaptive management (Policy on the Evaluation of Conservation Efforts, 68 FR 15100; March 28, 2003). In some cases, conservation efforts may be relatively new or may not have had sufficient time to demonstrate their biological benefit. In such cases, provisions of adequate monitoring and funding for conservation efforts are essential to ensure that the intended conservation benefits will be realized. We encourage all parties to submit information on ongoing efforts to protect and conserve the bumphead parrotfish, as well as information on recently implemented or planned activities and their likely impact(s).

Information Regarding Protective Efforts

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species (16 U.S.C. 1153(a)(3)(A)(i)). Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat (16 U.S.C. 1533(b)(2)). In advance of any determination to propose listing of the bumphead parrotfish as threatened or endangered under the ESA, we solicit information that would assist us in developing a critical habitat proposal.
Peer Review

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure listings are based on the best scientific and commercial data available. 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 take part in the peer review process for this status review (see ADDRESSES). Independent peer reviewers will be selected from the academic and scientific community, tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).


Eric C. Schwaab,
Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–7495 Filed 4–1–10; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 648
[Docket No. 100201058–0158–01]
RIN 0648–AY50
Fisheries of the Northeastern United States; Proposed 2010 Specifications for the Spiny Dogfish Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the spiny dogfish fishery for the 2010 fishing year (FY) (May 1, 2010, through April 30, 2011). The implementing regulations for the Spiny Dogfish Fishery Management Plan (FMP) require NMFS to publish specifications for up to a period of 5 years and to provide an opportunity for public comment. This specification setting will apply to FY 2010 only. The intent of this rulemaking is to specify the commercial quota and other management measures, and to rebuild the spiny dogfish resource. NMFS proposes that the annual quota be set at 12 million lb (5,443.11 mt), and that the possession limit for dogfish remain set at 3,000 lb (1.36 mt). These proposed specifications and management measures are consistent with the FMP and promote the utilization and conservation of the spiny dogfish resource.

DATES: Public comments must be received no later than 5 p.m. eastern standard time on May 3, 2010.

ADDRESSES: You may submit comments, identified by RIN 0648–AY50, by any one of the following methods:


• Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2010 Dogfish Spex.”

Instructions: No comments will be posted for public viewing until after the comment period has closed. 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). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (MAFMC), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Richard Seagraves, Acting Deputy Director, Mid-Atlantic