

believes it is likely that proceeding with negotiation of a consent agreement would be an efficient means of developing the data, EPA will use the following procedures to conduct such negotiations:

(1) In the **Federal Register**, EPA will give notice of the availability of the proposal(s) that is the basis for negotiation, invite persons interested in participating in or monitoring negotiations to contact the Agency in writing, set a deadline for interested parties to contact the Agency in writing, and set a date for the negotiation meeting(s).

(2) The Agency will meet with interested parties at the negotiation meeting(s) for the purpose of attempting to negotiate a consent agreement. Only the submitter(s) of the proposal(s) that is the basis for negotiation and those persons who submit written requests to participate in or monitor negotiations by the deadline established under paragraph (b)(1) of this section will be deemed "interested parties" for purposes of this section.

(3) All negotiation meetings will be open to members of the public, but only interested parties will be permitted to participate in negotiations. The minutes of each meeting will be prepared by EPA. Meeting minutes, the proposed consent agreement(s), background documents and other materials distributed at negotiation meetings will be placed in an Internet-accessible public docket established by EPA.

(4) If EPA concludes at any time that negotiations are unlikely to produce a final agreement, EPA will terminate negotiations and may proceed with rulemaking. If EPA terminates negotiations, no further opportunity for negotiations will be provided. EPA will notify all interested parties of the termination.

(5) The period between the first negotiation meeting and final agreement, if any ("the negotiation period"), will be no longer than six months, unless extended prior to its expiration in accordance with paragraph (b)(7) of this section. This period will include all negotiation meetings, and the processes discussed in paragraphs (b)(6) and (b)(9) of this section. If the negotiation period passes without the production of a final agreement, negotiations and development of the subject ECA will terminate automatically.

(6) EPA will circulate a draft of the consent agreement to all interested parties if EPA concludes that such draft is likely to achieve final agreement. A period of 30 days will be provided for submitting comments or written

objections under paragraph (b)(8)(i)(B) of this section.

(7) If, prior to the expiration of the negotiation period, final agreement has not been reached, EPA may at its discretion provide one or more extensions, each of which may be up to 60 days, if it seems likely to EPA that a final agreement will be reached during that time. EPA will notify all interested parties of any extension(s).

(8)(i) EPA will enter into consent agreements only where there is a consensus among the Agency, one or more manufacturers and/or processors who agree to conduct or sponsor the testing, and all other interested parties who identify themselves in accordance with paragraph (b)(2) of this section. EPA will not enter into a consent agreement in either of the following circumstances:

(A) EPA and affected manufacturers and/or processors cannot reach a consensus in the timeframe described in paragraph (b)(5) of this section.

(B) A draft consent agreement is considered inadequate by other interested parties who have submitted timely written objections to the draft consent agreement, which provide a specific explanation of the grounds on which the draft agreement is objectionable.

(ii) EPA may reject objections described in paragraph (b)(8)(i)(B) of this section only where the Agency concludes the objections:

(A) Are not made in good faith;

(B) Are untimely;

(C) Do not involve the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of the Toxic Substances Control Act (TSCA); or

(D) Are not accompanied by a specific explanation of the grounds on which the draft agreement is considered objectionable.

(iii) The unwillingness of some manufacturers and/or processors to sign the draft consent agreement does not, in itself, establish a lack of consensus if EPA concludes that those manufacturers and/or processors who are prepared to sign the agreement are capable of accomplishing the testing to be required and that the draft agreement will achieve the purposes of TSCA in all other respects.

(9) Where a consensus exists, as described in paragraph (b)(8)(i) of this section, concerning the contents of a draft consent agreement, the draft consent agreement will be circulated to EPA management and the parties that are to conduct or sponsor testing under

the agreement, for final approval and signature.

(10) Upon final approval and signature of a consent agreement, EPA will publish a **Federal Register** document announcing the availability of the consent agreement and codifying (in subpart C of part 799) the name of the substance(s) to be tested and the citation to the **Federal Register** document.

#### **§§ 790.24, 790.26, and 790.28 [Removed]**

5. Remove §§ 790.24, 790.26, and 790.28.

#### **Appendix A to Subpart E of Part 790 [Removed]**

6. Remove Appendix A to subpart E of part 790.

[FR Doc. 2010-3242 Filed 2-18-10; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 226**

**RIN 0648-AX06**

#### **Endangered and Threatened Species; Proposed Rule to Revise the Critical Habitat Designation for the Endangered Leatherback Sea Turtle; Extension of Public Comment Period**

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

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** On January 5, 2010, NMFS proposed regulations to revise the critical habitat designation for the endangered leatherback sea turtle (*Dermochelys coriacea*) by designating additional areas within the Pacific Ocean. Specific areas proposed for designation include two adjacent marine areas totaling approximately 46,100 square miles (119,400 square km) stretching along the California coast from Point Arena to Point Vicente; and one 24,500 square mile (63,455 square km) marine area stretching from Cape Flattery, WA, to the Umpqua River (Winchester Bay), OR, east of a line approximating the 2,000 meter depth contour. The areas proposed for designation comprise approximately 70,600 square miles (182,854 square km) of marine habitat. NMFS is extending the comment period on the proposed regulations until April 23, 2010.

**DATES:** Comments and information regarding this proposed rule must be received by April 23, 2010.

**ADDRESSES:** Written comments on the proposed rule may be submitted, identified by RIN 0648–AX06, and addressed to: David Cottingham, Chief, Marine Mammal and Sea Turtle Conservation Division, by any of the following methods:

- Electronic Submissions: Submit all electronic comments via the Federal eRulemaking Portal: <http://www.regulations.gov>;
- Facsimile (fax): 301–713–4060, Attn: David Cottingham;
- Mail: Chief, Marine Mammal and Sea Turtle Conservation Division, NMFS, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD, 20910.

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. NMFS may elect not to post comments that contain obscene or threatening content. 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. The proposed rule and supporting documents, including the biological report, economic report, initial regulatory flexibility analysis, and 4(b)(2) report, are also available electronically at <http://www.nmfs.noaa.gov/pr/species/turtles/leatherback.htm#documents>.

**FOR FURTHER INFORMATION CONTACT:** Sara McNulty, NMFS, Office of Protected Resources, 301–713–2322; Elizabeth Petras, NMFS Southwest Region, 562–980–3238; Steve Stone, NMFS Northwest Region, 503–231–2317.

**SUPPLEMENTARY INFORMATION:** On January 5, 2010, NMFS published the Proposed Rule to Revise the Critical Habitat Designation for the Endangered Leatherback Sea Turtle (75 FR 319). That **Federal Register** notice began NMFS' 60-day comment period, ending on March 8, 2010.

NMFS subsequently received a request from the Pacific Fishery

Management Council (Council) to extend the public comment period for an additional 45 days. The date the initial comment period closes falls in the middle of the Council's March 2010 meeting, precluding an opportunity for the Council to formulate and transmit comments. Additionally, the Council felt this proposed rule would be more appropriately discussed at the April Council meeting, where they plan to develop their comments. In this notice NMFS is extending the public comment period until April 23, 2010, in order to allow adequate time for the Council and others to thoroughly review and thoughtfully comment on the proposed rule.

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

Dated: February 12, 2010.

**Samuel D. Rauch III**,  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 100105009–0053–01]

**RIN 0648–AY51**

#### Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fisheries; 2010 Atlantic Deep-Sea Red Crab Specifications

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes 2010 specifications for the Atlantic deep-sea red crab fishery, including a target total allowable catch (TAC) and a fleet-wide days-at-sea (DAS) allocation. The implementing regulations for the Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP) require NMFS to publish specifications for up to a period of 3 years and to provide an opportunity for public comment. The intent of this rulemaking is to specify the target TAC and other management measures in order to manage the red crab resource for fishing year (FY) 2010.

**DATES:** Written comments must be received no later than 5 p.m. eastern standard time, on March 22, 2010.

**ADDRESSES:** You may submit comments, identified by 0648–AY51, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>
- Fax: (978) 281–9135, Attn: Regional Administrator.
- 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 Red Crab Specifications.”

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 the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Paul Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. The specifications document is also accessible via the Internet at <http://www.nero.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

#### SUPPLEMENTARY INFORMATION:

##### Background

The FMP includes a specification process that requires the New England Fishery Management Council (Council) to recommend, on a triennial basis, a target TAC and a fleet DAS allocation that is consistent with that target TAC. In FY 2009, NMFS published an emergency rule to modify the target TAC and fleet DAS to be consistent with the recommendations of the Data Poor Stocks Working Group and Review Panel (Working Group). The Working Group recommended a reduction in the maximum sustainable yield (MSY) to 3.75–4.19 million lb (1,700–1,900 mt).