

other plaintiffs) challenged NMFS' not warranted finding. The U.S. District Court for the Northern District of California issued an order on March 2, 2004, which set aside NMFS's not warranted finding and remanded the matter back to NMFS for redetermination of whether green sturgeon is in danger of extinction throughout all or a significant portion of its range, or is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Therefore, these DPSs are now considered candidate species, as well as species of concern. NMFS will make this determination on or before March 2, 2005.

### Information Solicited

For the original status review, NMFS solicited information concerning the status of green sturgeon to ensure that the review was complete and based on the best available science (66 FR 64793; December 14, 2001). Specifically, the Agency requested available information on: (1) relevant biological data that could help identify DPSs of green sturgeon (e.g., age structure, genetics, migratory patterns, morphology); (2) the range, distribution, habitat use and abundance of green sturgeon, including information on the spawning populations of the species; (3) current or planned activities and their potential impact on green sturgeon (e.g., harvest impacts, habitat impacting activities or actions); and (4) green sturgeon protection efforts underway in California, Oregon, Washington and Canada.

NMFS also requested information on areas that include the physical and biological features essential to the recovery of the species and that may qualify as critical habitat for green sturgeon. Essential features included, but were not limited to the following: (1) habitat for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species. For areas potentially qualifying as critical habitat, NMFS requested information describing: (1) the activities that affect the area or could be affected by the designation; and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation.

The U.S. District Court's March 2004 remand was issued because the Court was not satisfied with NMFS's examination of whether purported lost spawning habitat constituted a significant portion of either DPS's range. To ensure that the forthcoming status review update is comprehensive, based on the best available data, and specifically addresses the deficiencies outlined by the Court, NMFS is soliciting any new information beyond that considered in the 2002 green sturgeon status review or the January 2003 1-year finding on the following topics for the northern and southern DPSs of green sturgeon: (1) new genetic, morphological, physiological, or ecological information relevant to DPS identification; (2) current or historic information documenting the geographic extent (e.g., area, river mile distance) and magnitude (e.g., abundance of spawning females, reproductive output) of spawning in particular river systems (e.g., Fraser River, Umpqua River, South Fork Trinity River, Eel River, Feather River, and San Joaquin River) where spawning is reported to have occurred historically, but apparently no longer does; (3) information documenting the current geographic extent and magnitude of spawning in areas other than where it is known to presently occur (i.e., areas other than the Sacramento River, Klamath River and Rogue River); (4) the legitimacy of references used to support information regarding current or historic spawning in the systems mentioned above in (2) and (3), particularly citations by Houston (1988) for the Fraser River, Lauman *et al.* (1972) and the Oregon Department of Fish and Wildlife (2002) for the Umpqua River, Moyle *et al.* (1992) and references therein for the South Fork Trinity River, Puckett (1976), Moyle *et al.* (1992) and references therein for the Eel River; Wang (1986) and U.S. Fish and Wildlife Service (1995) for the Feather River, and Moyle *et al.* (1992) and references therein for the San Joaquin River; (5) historic, current or future factors that may be responsible for the reported loss of spawning habitat and associated spawning populations; and (6) fishery-dependent and -independent abundance data for analysis of population trends.

Information on item above one will assist NMFS in determining whether the DPS structure previously identified is correct or needs modification. Items two and three should provide the following types of information: (1) abiotic and biotic characteristics of spawning habitat (e.g., amount, substrate type, water temperature, flow rates,

sedimentation rates); (2) abundance of spawning females from each river system; (3) measures of reproductive output from spawning habitats; and (4) age/size structure of populations from spawning habitats. Item five information should not only identify factors that may be responsible for lost spawning habitat, but should also provide qualitative and/or quantitative data (e.g., changes in mortality rates, growth rates, behavior) that suggest a direct or indirect link to the identified threat(s). Item six will provide updated information for abundance trends analysis that was conducted during the first biological status review.

Information submitted to NMFS should be accompanied by references and a commentary by the presenter on the veracity of the data and whether the information is based on published or unpublished scientific data, professional judgment, or anecdotal accounts. This will be particularly crucial in helping NMFS determine whether purported historic spawning in the Fraser River, Umpqua River, South Fork Trinity River, Eel River, Feather River, and San Joaquin River can be substantiated. In addition, suggestions of novel methods for addressing any of the above topics, in particular assessing the amount and importance of spawning habitat that may have been lost, is requested.

### References

The 2003 biological status review of green sturgeon is available via the Internet (see Electronic Access) and a complete list of all references used in this notice is available upon request (see ADDRESSES).

Dated: June 14, 2004.

**Laurie Allen,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 060704E]

### Groundfish Fisheries of the Bering Sea and Aleutian Islands (BSAI) Area and the Gulf of Alaska, King and Tanner Crab Fisheries in the BSAI, Scallop and Salmon Fisheries Off the Coast of Alaska

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

**ACTION:** Notice of public meeting.

**SUMMARY:** NMFS has requested the Center for Independent Experts (CIE) to conduct a peer review of the agency's evaluation of the effects of fishing on Essential Fish Habitat (EFH) in Alaska. CIE is a group affiliated with the University of Miami that provides independent peer reviews of NMFS science nationwide, including reviews of stock assessments for fish and marine mammals. The evaluation of the effects of fishing on EFH was completed in support of the Draft Environmental Impact Statement (DEIS) for EFH Identification and Conservation in Alaska. The CIE review will examine whether the evaluation incorporates the best available scientific information and provides a reasonable approach to understanding the effects of fishing on habitat in Alaska. As part of this review, NMFS will hold a public meeting between the CIE panel and the NMFS scientists who designed the analysis and the underlying model.

**DATES:** The public meeting will be held June 29, 2004, from 9 a.m. - 5 p.m. Pacific daylight time.

**ADDRESSES:** The meeting will convene at the NMFS Alaska Fisheries Science Center, Jim Traynor Conference Room, Building 4, 7600 Sand Point Way NE, Seattle, WA.

**FOR FURTHER INFORMATION CONTACT:** Jon Kurland, Assistant Regional Administrator for Habitat Conservation, 907-586-7638.

**SUPPLEMENTARY INFORMATION:****Background**

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires NMFS and Fishery Management Councils to describe and identify EFH in fishery management plans (FMPs), minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH. The North Pacific Fishery Management Council (North Pacific Council) amended its FMPs for the groundfish, crab, scallop, and salmon fisheries in 1998 to address the EFH requirements. The Secretary of Commerce, acting through NMFS, approved the North Pacific Council's EFH FMP amendments in January 1999 (64 FR 20216; April 26, 1999). In the spring of 1999, a coalition of seven environmental groups and two fishermen's associations filed suit in the United States District Court for the District of Columbia to challenge NMFS' approval of EFH FMP amendments prepared by the Gulf of Mexico,

Caribbean, New England, North Pacific, and Pacific Fishery Management Councils. The focus of the litigation was whether NMFS and the Councils had adequately evaluated the effects of fishing on EFH and had taken appropriate measures to mitigate adverse effects. In September 2000, the court upheld NMFS' approval of the EFH amendments under the Magnuson-Stevens Act, but ruled that the environmental assessment prepared for the amendments violated the National Environmental Policy Act (NEPA). The court ordered NMFS to complete new and thorough NEPA analyses for each EFH amendment in question. The DEIS for EFH Identification and Conservation in Alaska is the curative NEPA analysis for the North Pacific Council's FMPs. A notice of availability for the DEIS was published in the **Federal Register** on January 16, 2004 (69 FR 2593). The DEIS is available on the internet at [www.fakr.noaa.gov/habitat/seis/efheis.htm](http://www.fakr.noaa.gov/habitat/seis/efheis.htm). The public comment period closed April 15, 2004.

The DEIS analysis of the effects of fishing on EFH has two components: (1) a quantitative mathematical model to show the expected long term effects of fishing on habitat, and (2) a qualitative assessment of how those changes affect fish stocks. After considering the available tools and methodologies for assessing effects of fishing on habitat, NMFS, the North Pacific Council, and the North Pacific Council's Scientific and Statistical Committee concluded that the model and analysis incorporate the best available scientific information and provide a good approach to understanding the impacts of fishing activities on habitat. Nevertheless, the model has not been subjected to a formal peer review. Given the newness of the model, the importance of this analysis for Alaska's fisheries, and the controversial nature of the subject matter, NMFS determined that an outside peer review is a prudent step that will strengthen the administrative record for the agency's decisions.

The CIE panel will consist of five reviewers plus a chair. The panel will review materials related to the topic, participate in a workshop with the NMFS scientists who developed the model and the analytical approach, and produce a report. The final report is due in August 2004 and will consist of individual reports from each panelist plus a summary report. The chair will present the results of the review during the October 2004 North Pacific Council meeting. Further information, including the statement of work for the CIE review and all of the documents NMFS is asking the panel to review, is available

on the internet at [www.fakr.noaa.gov/habitat/cie/review.htm](http://www.fakr.noaa.gov/habitat/cie/review.htm).

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for special accommodations should be directed to Mary B. Goode, (907) 586-7636, at least five working days before the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 10, 2004.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 061004B]

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

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

Notification of a proposal for an EFP to conduct experimental fishing; request for comments.

**SUMMARY:** The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application requested by the National Fisheries Institute (NFI) and Rutgers, The State University of New Jersey (Rutgers), for a study to conduct a supplemental finfish trawl survey (survey) under the Mid-Atlantic Fishery Management Council Research Set-Aside (RSA) Program 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 Summer Flounder, Scup, and Black Sea Bass, Atlantic Mackerel, Squid, and Butterfish, and Bluefish Fishery Management Plans. However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one vessel to conduct fishing operations that are otherwise restricted by the