

Drive, P.O. Box 13528, Research Triangle Park, NC 27709-3528, requests to amend the tolerances in 40 CFR 180.649 for residues of the herbicide saflufenacil, including its metabolites and degradates, in or on livestock commodities (cattle, goat, horse, sheep): fat from 0.01 ppm to 0.05 ppm; liver from 2.5 ppm to 45 ppm; and meat byproducts, except liver from 0.05 ppm to 0.5 ppm; hog, fat from 0.01 ppm to 0.05 ppm; hog, liver from 0.80 ppm to 45 ppm; and hog, meat byproducts, except liver from 0.02 ppm to 0.5 ppm. Adequate enforcement methodology (LC/MS-MS) methods for plant and livestock commodities are available to enforce the tolerance expression. (RD)

7. *PP 3F8196*. (EPA-HQ-OPP-2013-0673). K-I Chemical U.S.A., Inc. c/o Landis International, Inc., P.O. Box 5126 Valdosta, GA 31603-5126, requests to amend the tolerances in 40 CFR 180.659 for residues of the sum of the herbicide pyroxasulfone, [3-[[[5-(difluoromethoxy)-1-methyl-3-(trifluoromethyl)-1H-pyrazol-4-yl]methyl] sulfonyl]-4,5-dihydro-5,5-dimethylisoxazole] and its metabolite 5-(difluoromethoxy)-1-methyl-3-(trifluoromethyl)-1H-pyrazol-4-carboxylic acid (M-3) calculated as the stoichiometric equivalent of pyroxasulfone, in or on corn, field, grain at 0.02 ppm; and pyroxasulfone [3-[[[5-(difluoromethoxy)-1-methyl-3-(trifluoromethyl)-1H-pyrazol-4-yl]methyl]sulfonyl]-4,5-dihydro-5,5-dimethylisoxazole] and its metabolites [5-(difluoromethoxy)-1-methyl-3-(trifluoromethyl)-1H-pyrazol-4-yl]methanesulfonic acid (M-1), 5-(difluoromethoxy)-1-methyl-3-(trifluoromethyl)-1H-pyrazol-4-carboxylic acid (M-3), and [5-(difluoromethoxy)-3-(trifluoromethyl)-1H-pyrazol-4-yl]methanesulfonic acid (M-25), calculated as the stoichiometric equivalent of pyroxasulfone in or on corn, field, forage at 0.09 ppm. EPA has approved an analytical enforcement methodology including LC/MS-MS to enforce the tolerance expression for pyroxasulfone. (RD)

8. *PP 3F8197*. (EPA-HQ-OPP-2013-0670). BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709-3528, requests to amend the tolerances in 40 CFR 180.464 for residues of the herbicide dimethenamid, in or on cottonseed, subgroup 20 at 0.01 ppm; cotton, gin byproducts at 1.5 ppm; and cotton, seed, refined oil at 0.02 ppm. Compliance with the plant commodity tolerances level is to be determined by measuring only the sum of residues of dimethenamid, 1 (R,S)-2-chloro- N -[(1-methyl-2-methoxy)ethyl]- N -(2,4-

dimethylthien-3-yl)-acetamide, applied as either the 90:10 or 50:50 S:R isomers, in or on commodities. The enforcement analytical method uses extraction and clean up followed by quantification with capillary column gas chromatography using thermionic nitrogen specific detector. A gas spectrometry/MS (GS/MS) method for identification is also available. This method is not selective towards the dimethenamid isomer and is therefore valid for residues from both racemic dimethenamid and the enriched isomer dimethenamid-P. An LC/MS-MS method was developed as a residue generation method to fulfill residue chemistry investigations, and was used to develop the cotton residue data. Tolerances are proposed on a non-isomer specific basis. (RD)

#### New Tolerance Exemptions

1. *PP 3F8148*. (EPA-HQ-OPP-2013-0277). Amy Plato Roberts, Regulatory Consultant, Technology Sciences Group, Inc., 712 Fifth St., Suite A, Davis, CA 95616, on behalf of Agri-Neo, Inc., 3485 Ashby Saint-Laurent (Quebec), H4R 2K3, Canada, requests to establish an exemption from the requirement of a tolerance for residues of the biochemical tetraacetylenediamine (TAED) and its degradation product diacetylenediamine (DAED), in or on all food commodities. The petitioner believes no analytical method is needed because it is not required for a tolerance exemption. (BPPD)

2. *PP 3F8172*. (EPA-HQ-OPP-2013-0666). Novozymes BioAg, Inc., 13100 W. Lisbon Road, Suite 600, Brookfield, WI 53005, requests to establish an exemption from the requirement of a tolerance for residues of the microbial insecticide, *Chromobacterium subtsugae* strain SB3872, in or on all food commodities. The petitioner believes no analytical method is needed because, when used as directed, *Chromobacterium subtsugae* strain SB3872 will not result in residues that are of toxicological concern. (BPPD)

3. *PP IN-10622*. (EPA-HQ-OPP-2013-0590). Technology Sciences Group, Inc., 1150 18th St. NW., Suite 1000, Washington, DC 20036, requests to establish an exemption from the requirement of a tolerance for residues of coco alkyl dimethyl amines (CAS No. 61788-93-0), under 40 CFR 180.920, when used as a pesticide inert ingredient in pesticide formulations for use in or on growing crops. The petitioner believes no analytical method is needed because it is not required for the establishment of a tolerance exemption for inert ingredients. (RD)

#### List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 30, 2013.

**Lois Rossi,**

Director, Registration Division, Office of Pesticide Programs.

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Parts 223 and 224

[Docket No. 130819728-3728-01]

**RIN 0648-XC822**

#### Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List 23 Species of Corals as Threatened or Endangered Under the Endangered Species Act

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

**ACTION:** Notice of 90-day petition finding; request for information.

**SUMMARY:** We (NMFS) announce a 90-day finding on a petition to list 23 species of corals as threatened or endangered under the Endangered Species Act (ESA). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for 3 species: *Cantharellus noumeae*, *Siderastrea glynni*, and *Tubastraea floreana*. Therefore, we will conduct status reviews of the three species to determine if the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we are soliciting scientific and commercial information pertaining to these petitioned species from any interested party. We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted for 20 species: *Acropora roseni*, *Acropora suharsonoi*, *Alveopora excelsa*, *Alveopora minuta*, *Ctenella chagius*, *Hydnophora bonsai*, *Isopora togianensis*, *Lithophyllon ranjithi*, *Lobophyllia serratus*, *Millepora boschmai*, *Millepora striata*, *Montipora setosa*, *Parasimplastrea sheppardi*, *Pectinia maxima*, *Pocillopora*

*fungiformis*, *Porites desilveri*, *Porites eridani*, *Porites ornata*, *Rhizopsammia wellingtoni*, and *Stylophora madagascarensis*.

**DATES:** Information and comments on the subject action must be received by December 24, 2013.

**ADDRESSES:** You may submit comments, information, or data on this document, identified by the code NOAA–NMFS–2013–0138, by any of the following methods:

- **Electronic Submissions:** Submit all electronic comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0138](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0138), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

- **Fax:** 301–713–4060, Attn: Dwayne Meadows.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous), although submitting comments anonymously will prevent us from contacting you if we have difficulty retrieving your submission. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the petition and related materials are available upon request from the Director, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910, or online at: [www.nmfs.noaa.gov/pr/species/petition81.htm](http://www.nmfs.noaa.gov/pr/species/petition81.htm).

**FOR FURTHER INFORMATION CONTACT:** Dwayne Meadows, Office of Protected Resources, 301–427–8403.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 15, 2013, we received a petition from the WildEarth Guardians to list 81 marine species as threatened or endangered under the ESA and to designate critical habitat under the ESA. Copies of this petition are available from

us (see **ADDRESSES**). This finding addresses the 23 species of corals identified as part of this petition. The 23 coral species considered in this finding are: *Acropora roseni*, *Acropora suharsonoi*, *Alveopora excelsa*, *Alveopora minuta*, *Cantharellus noumeae*, *Ctenella chagius*, *Hydnophora bonsai*, *Isopora togianensis*, *Lithophyllon ranjithi*, *Lobophyllia serratus*, *Millepora boschmai*, *Millepora striata*, *Montipora setosa*, *Parasimplystrea sheppardi*, *Pectinia maxima*, *Pocillopora fungiformis*, *Porites desilveri*, *Porites eridani*, *Porites ornata*, *Rhizopsammia wellingtoni*, *Siderastrea glynni*, *Stylophora madagascarensis*, and *Tubastraea floreana*.

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 make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates that the petitioned action may be warranted (a “positive 90-day finding”), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a “may be warranted” finding at the 90-day stage does not prejudice the outcome of the status review.

Under the ESA, a listing determination may address a “species,” which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). This finding only addresses invertebrate corals, so the DPS option cannot be considered. 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)). Pursuant to the ESA and our implementing regulations, the determination of whether a species is threatened or endangered shall be based on any one or a combination of the following five ESA section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species’ existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and the U.S. Fish and Wildlife Service (50 CFR 424.14(b)) define “substantial information” in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains 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; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) 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)).

At the 90-day stage, we evaluate the petitioner’s request based upon the information in the petition, including its references and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner’s sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition’s information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the

90-day finding stage, so long as it is reliable and a reasonable person would conclude that it supports the petitioner's assertions. Conclusive information indicating that the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating that the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a "species" eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by non-

governmental organizations, such as the International Union for Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do "not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act" because NatureServe assessments "have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide" (<http://www.natureserve.org/prodServices/statusAssessment.jsp>). Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

In this petition the petitioner relies almost exclusively on the risk classifications of the IUCN as the source of information on the status of each petitioned species. All of the petitioned species are listed as "endangered" or "critically endangered" on the IUCN Redlist and the petitioner notes this as an explicit consideration in offering petitions on these species. Species classifications under the IUCN and the ESA are not equivalent, and data standards, criteria used to evaluate species, and treatment of uncertainty are also not necessarily the same. Thus, we instead consider the information on threats identified by the petitioners, as well as the data on which they are based, as they pertain to each petitioned species.

All of the species considered in this petition are listed in Appendix II of the Convention on International Trade in Endangered Species (CITES). According to Article II of CITES, species listed on Appendix II are those that are "not necessarily now threatened with extinction but may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival." Based on the CITES definitions and standards for listing species on Appendix II, the species' actual listing on Appendix II is not itself an inherent indication that these species may now warrant threatened or endangered status under the ESA.

Species classifications under CITES and the ESA are not equivalent, and criteria used to evaluate species are not the same. Thus, we instead consider the available information on the threat of international trade (see below).

### Species Description

Most of the petitioned coral species are shallow water, reef-building anthozoan corals. The two *Millepora* species are hydrozoan corals and thus differ in biology more from the other species. All of the species occur in the Pacific and/or Indian oceans except *Millepora striata*, which occurs in the Caribbean, Gulf of Mexico and western Atlantic Ocean. Only *Porites eridani* is noted as occurring in the United States (the Commonwealth of the Northern Mariana Islands); all of the other corals have strictly foreign distributions.

The introductory part of the coral section of the petition provides general background information on corals, including anatomy, symbiosis with photosynthetic zooxanthellae, reef formation, physiological needs, and biodiversity. A general description of threats following the five ESA Section 4(a)(1) factors is provided in the introductory coral section of the petition and is meant to apply to all of the petitioned corals. This section discusses the following threats: Extraction, utilization, habitat destruction, sedimentation, disease, predation by crown-of-thorns starfish (*Acanthaster planci*), regulatory mechanisms, human population growth, climate change, and synergistic effects. The species-specific information section follows and provides information from the IUCN assessment for each species. This species-specific section includes less than one page of unique material per species, including the species' CITES status, range and habitat information (see specific discussion by species below in the "Analysis of the Petition" section). Entries for only a few species provide species-specific population status or trend information. Following the first page of information for each species there is a section of about three pages in length per species that considers the five ESA Section 4(a)(1) threat factors for each species. Most of this information is repeated verbatim for each species, and generally includes and repeats the same points that were made in the introductory part of the coral section of the petition. We consider the species-specific information provided separately in the "Analysis of the Petition" section below.

Information in our files included the materials cited in the status review

report, management report, and supplemental information report for our consideration of a separate petition to list 82 species of corals (Brainard *et al.*, 2011; PIRO, 2012; and NMFS, 2012, respectively). In addition we relied on a few citations from the status review report that dealt directly with the petitioned species or their close taxonomic relatives, including Forsman *et al.* (2005) and Richards (2009).

### Analysis of the Petition

#### General Information

The petition clearly indicates the administrative measure recommended and gives the scientific and common names of the species involved. The petition also contains a narrative justification for the recommended measures and provides limited information on the species' geographic distribution, habitat use, and threats. Limited information is provided on past and present numbers, population status and trends for all but a couple of species. A synopsis of our analysis of the information provided in the petition and readily available in our files is provided below.

Based on the information presented in the petition, along with the information readily available in our files, we find that each of the 23 petitioned species constitutes a valid "species" eligible for listing under the ESA as each is a valid taxonomic species.

The introductory threats discussion is general and not tied to any of the specific petitioned species besides information later repeated in the species-specific section (discussed below). The petitioners cite the Brainard *et al.* (2011) status review report for many of the general threats to corals. Other recent citations in this section not available during our status review of the petition to list 82 corals include online news articles and the most recent "Reefs at Risk" (Burke *et al.*, 2012) review. Many other citations are undated, which inhibits assessment of the quality of the information presented. The general threats discussion is not clearly or causally linked to the petitioned species or their range or habitat (e.g., discussion of dead zone in the northern Gulf of Mexico is from an area outside the range of the petitioned species; a discussion suggesting that disease affects all Indo-Pacific corals only because some disease occurs generally in the region). The discussion of regulatory mechanisms argues that there are no adequate regulatory mechanisms because the species are listed as endangered or critically endangered by IUCN and asserts that all wild populations are

declining based on overall trends in coral reef habitat, which is assumed to be a proxy for population trends despite evidence in the petition itself to the contrary (see below). However, generalized evidence of declining habitat or declining populations per se are neither evidence of declines large enough to infer extinction risk that may meet the definition of either threatened or endangered under the ESA, nor evidence of inadequate regulatory mechanisms, since sustainable management regimes can have periods of declining populations. The discussion of CITES incorrectly characterizes the applicability of CITES provisions when countries that are parties to CITES trade with non-party countries, and makes an unsubstantiated generalization that enforcement issues for some range countries for largetooth sawfish (*Pristis perotetti*) relate to most or all countries involved in coral trade. The two *Millepora* species are listed in the petition as being in Appendix I and II of CITES. This is incorrect; they are only in Appendix II. The petitioner's general discussion of climate change acknowledges that some corals are resistant to bleaching, but continues to attempt to generalize bleaching as an extinction threat to all corals or to corals within the same genus when there are better data on a congeneric species. Likewise they imply that ocean acidification is a threat to all the petitioned species. Data in our files as summarized by Brainard *et al.* (2011) show that adaptation and acclimatization to increased ocean temperatures are possible, that there is intra-genus variation in susceptibility to bleaching, ocean acidification, and sedimentation, that at least some species have already expanded their range in response to climate change, and that not all species are seriously affected by ocean acidification.

While the information in this introductory section is otherwise largely accurate and suggests concern for the status of corals generally, its broadness, generality, and speculative nature, and the failure of the petitioner to make reasonable connections between the threats discussed and the status of the individual petitioned species, means that we cannot find that this information reasonably suggests that one or more of these threat factors may be operative threats that act or have acted on any of the petitioned species to the point that it may warrant protection under the ESA. There is little information in this introductory section indicating that particular petitioned

species may be responding in a negative fashion to any of the discussed threats. Therefore, we determine that the information in this section does not constitute substantial information that listing may be warranted for any of the petitioned species.

The next part of the petition consists of individual species accounts for each of the 23 petitioned corals. Accompanying the petition account for each species is a reference to the IUCN assessment from 2008, a list of references used in the IUCN assessment, and our status review report for a prior petition to list 82 species of corals (Brainard *et al.*, 2011). For each species the petitioner describes the species' range and preferred habitat type from the IUCN analysis. For most species the petitioner offers no species-specific life history, abundance, or threat information (see discussion of exceptions below). Many do have supposedly species-specific statements regarding vulnerability to bleaching, disease or other threats, but these statements do not provide citations to scientific literature establishing these vulnerabilities (including within the IUCN analyses) or the petitioner bases their vulnerability determination on inferences from research on the vulnerability of other related species (usually within the same genus) that may or may not be applicable to the petitioned species. Based on information in our files on the intra-genus variation in threat response in corals discussed above, we do not believe that these vulnerability determinations constitute substantial information that listing may be warranted.

The petitioners use 2004 ocean-basin wide estimates of reef habitat that has already been destroyed or is "likely to be destroyed within 20 years" (Wilkinson, 2004) as proxies for likely trends in population size for the petitioned species. We find this problematic for a number of reasons: The habitat loss data are broad geographic estimates that do not necessarily reflect the actual range of the petitioned species; it is unclear on what basis and using what data Wilkinson (2004) was able to estimate future habitat loss; not all species respond the same way to the threats underlying the assumed habitat loss (see above discussion); and in fact, the estimated trend in population status contradicts other information in the petitions and IUCN assessments for some species (e.g., *Ctenella chagius*, *Isopora togianensis*, *Porites desilveri*, and *Stylophora madagascarensis*) where the IUCN assessments notes that those

species are currently “common”. Moreover, even if true, the estimated population declines based on these expected habitat losses do not exceed the levels of population loss in actively and sustainably managed fishery species. Therefore, we do not believe these population decline estimates constitute substantial information that listing may be warranted for the petitioned species.

Finally, within each species’ petition the petitioner provides a discussion of the ESA section 4(a)(1) threats. Much of this discussion, especially for climate change effects, repeats almost verbatim discussion in the general introduction for all corals. Species-specific information in these petitions is discussed further below.

Overall, the petition provides no species-specific information for 15 of the petitioned species and solely relies on generalizations from related species and broad assumptions that potential threats are actually influencing the petitioned species. For each of these 15 species listed below, we also had no additional information in our files with which to assess status or potential extinction risk to the species. Therefore, based on our policies as described above for reviewing petitions at this stage, we find that for the 15 petitioned species where there is no species-specific trend, life-history or threat information, the information presented in the petition does not constitute substantial information that listing may be warranted. The 15 species to which this conclusion applies are: *Acropora roseni*, *Alveopora excelsa*, *Alveopora minuta*, *Ctenella chagius*, *Hydnophora bonsai*, *Isopora togianensis*, *Millepora striata*, *Montipora setosa*, *Parasimplystrea sheppardi*, *Pectinia maxima*, *Pocillopora fungiformis*, *Porites desilveri*, *Porites eridani*, *Porites ornata*, and *Stylophora madagascarensis*.

#### Species-Specific Information

For the following species, at least some species-specific information on population trends, life history, and/or threats was provided in the petition or available in our files in addition to the general information discussed above. Below we analyze this species-specific information in light of the standards of the ESA and our policies as described above.

The petition notes that *Acropora suharsonoi* is commercially traded and cites information that the total number of live and raw specimens exported for this species in 2005 was 175. The petitioner claims that any trade of species categorized by IUCN as endangered or critically endangered is a

threat, despite their status on CITES Appendix II. The petitioner provides no justification for this claim, and it contradicts the policy and intent of CITES Appendix II listings, which establish procedures to ensure that trade in Appendix II listed species is sustainable and which the U.S. government fully supports as the first party to CITES. The petitioner does not explain how this level of trade, alone or in combination with other threats, is likely to imply that this species may be threatened or endangered under the ESA. Therefore, we find that for *A. suharsonoi*, the species-specific information presented in the petition does not constitute substantial information that listing may be warranted.

*Cantharellus noumeae* occurs only in a restricted area on reefs in water close to soft sediment habitats in sheltered bays in New Caledonia where it is exposed to mining activities and urbanization causing habitat degradation from the sedimentation and potential pollutants. We have no additional information on the mining activity, but the limited area of occupancy of the species of less than 225 km<sup>2</sup> is cause for concern that the urbanization, combined with even a single mining operation with poor sediment controls could threaten this species. Therefore, we conclude that the species-specific information presented in the petition constitutes substantial information that listing may be warranted for *C. noumeae*.

The petitioner cites the IUCN assessment that notes that *Lithophyllon ranjithi* is exposed to a threat of siltation from deforestation activity somewhere near or within its range. While this species is restricted to a relatively small area of about 250km<sup>2</sup> in northeast Borneo, the petitioner does not provide information on the location or extent of the deforestation activity nor the extent of the range of the species affected by deforestation. Therefore, we find that for *L. ranjithi*, the species-specific information presented in the petition does not constitute substantial information that listing may be warranted.

For *Lobophyllia serratus*, the petitioner and IUCN assessment note that the species is “likely collected for the aquarium trade.” No information on the extent of this trade or whether it exceeds sustainable levels, or occurs illegally outside the CITES Appendix II processes, is provided or implied. Therefore, we find that for *L. serratus*, the species-specific information presented in the petition does not

constitute substantial information that listing may be warranted.

Species-specific population data are available for *Millepora boschmai*. According to the IUCN assessment, the species was the least abundant of the three *Millepora* species in its range but was still not uncommon. It was then almost eliminated by the 1982–83 El Niño Southern Oscillation (ENSO) event, but eight live colonies were found within its restricted range after the ENSO. However, after a second ENSO in 1997–98, all known colonies were found dead (Glynn *et al.*, 2001). Since that time “no live colonies have been observed, despite targeted searches throughout the former distribution” (Guzman and Edgar, 2008). Brainard *et al.* (2011) assessed the status of *M. boschmai* to provide an extreme case study to provide context for their analysis of the status of the 82 coral species petitioned under the ESA in 2009. They also concluded that the species was extinct. The purpose of the ESA is to conserve species that are in danger of or threatened with extinction. The definition of an endangered species is “any species which is [emphasis added] in danger of extinction throughout all or a significant portion of its range” (Section 3(6)). Species that are already extinct are not protected by the ESA. The best available scientific information suggests that *M. boschmai* is not known to be alive or exist in the wild and may already be extinct; therefore, we find that this species does not qualify for listing as endangered or threatened under the ESA.

Some species-specific abundance data exist for *Rhizopsammia wellingtoni*, which is endemic to the Galapagos Islands. Prior to the 1982–83 ENSO the species was extremely abundant at Tagus Cove on the island of Isabela (approximately 13 percent mean cover of the reef surface at 15 m depth). According to the IUCN assessment, all colonies known prior to the 1982–83 ENSO have disappeared. A few additional colonies were found at two sites in the Galapagos as late as 2000, but these are also now extirpated. The purpose of the ESA is to conserve species that are in danger of or threatened with extinction. The definition of an endangered species is “any species which is [emphasis added] in danger of extinction throughout all or a significant portion of its range” (Section 3(6)). Species that are already extinct are not protected by the ESA. The best available scientific information suggests that *R. wellingtoni* is not known to be alive or exist in the wild and may already be extinct; therefore, we find that this species does not

qualify for listing as endangered or threatened under the ESA.

*Siderastrea glynni* was first discovered in 1992 as an endemic species in Panama in a small area near the Pacific opening of the Panama Canal. Only five individual colonies have ever been discovered. Four currently survive. According to the IUCN assessment, during the 1997–98 El Niño the four *S. glynni* colonies started to deteriorate, displaying bleaching and tissue loss. Due to their unhealthy state, the four colonies were moved to Smithsonian Tropical Research Institute (STRI) aquaria in Panama where they remain to this day. Attempts made by STRI staff to propagate this coral in the STRI aquaria have produced 11 propagules, which also remain in captivity. Recent genetic work by Forsman *et al.* (2005) has shown that this species is genetically very similar to the Caribbean species *S. siderea*. Their study could not differentiate between the possibility that *S. siderea* and *S. glynni* are the same species and that *S. glynni* may have recently passed through or been carried across the Panama Canal to the Pacific Ocean side, or the alternate possibility that *S. glynni* evolved from *S. siderea* 2 to 2.3 million years ago during a period of high sea level that may have breached the Isthmus of Panama. However, because of the possibility that *S. glynni* is a unique species, we conclude that the species-specific information presented in the petition and our files constitutes substantial information that listing this species may be warranted.

Some species-specific abundance data exist for *Tubastraea floreana*. The species is also endemic to the Galapagos Islands. According to the IUCN assessment, prior to the 1982–83 ENSO the species was known from six sites on four islands. Since the 1982–83 ENSO specimens have only been observed at two sites. At one of these two sites the species has not been seen since 2001, leaving only a single confirmed site with living specimens. We have no additional information on this species in our files. Therefore, we conclude that the species-specific information presented in the petition constitutes substantial information that listing may be warranted for *T. floreana*.

#### Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, including the sections of the petition applicable to all of the petitioned corals as well as the species-specific information, we conclude the petition in its entirety does not present

substantial scientific or commercial information indicating the petitioned action may be warranted for 20 of the 23 species of corals. These 20 species are: *Acropora roseni*, *Acropora suharsoni*, *Alveopora excelsa*, *Alveopora minuta*, *Ctenella chagius*, *Hydnophora bonsai*, *Isopora togianensis*, *Lithophyllon ranjithi*, *Lobophyllia serratus*, *Millepora boschmai*, *Millepora striata*, *Montipora setosa*, *Parasimplystrea sheppardi*, *Pectinia maxima*, *Pocillopora fungiformis*, *Porites desilveri*, *Porites eridani*, *Porites ornata*, *Rhizopsammia wellingtoni*, and *Stylophora madagascarensis*. In contrast, as described above, we find that there is substantial scientific or commercial information indicating the petitioned action may be warranted for 3 of the 23 species of corals and we hereby announce the initiation of a status review for each of these three species to determine whether the petition action is warranted. These 3 species are: *Cantharellus noumeae*, *Siderastrea glynni*, and *Tubastraea floreana*.

#### Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting information relevant to whether the three species we believe may be warranted for listing (*Cantharellus noumeae*, *Siderastrea glynni*, and *Tubastraea floreana*) are threatened or endangered. Specifically, we are soliciting information, including unpublished information, in the following areas: (1) Historical and current distribution and abundance of each species throughout its range; (2) historical and current population trends; (3) life history; (4) data on international trade; (5) any current or planned activities, including additional details on those threats discussed above, that may adversely impact the species; (6) current status and plans for husbandry or release of *Siderastrea glynni*, (7) ongoing or planned efforts to protect and restore the population and its habitat; and (8) management, regulatory, and enforcement information. We request that all information be accompanied by: (1) supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

#### References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

#### Authority

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

Dated: October 18, 2013.

**Alan D. Risenhoover,**

Director, Office of Sustainable Fisheries, performing the functions and duties of the 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 622

[Docket No. 130802673–3673–01]

**RIN 0648–BD49**

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Revisions to Headboat Reporting Requirements for Species Managed by the Gulf of Mexico Fishery Management Council

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

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

**SUMMARY:** NMFS proposes regulations to implement management measures described in a framework action to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico (Gulf), as prepared by the Gulf of Mexico Fishery Management Council (Gulf Council); and Coastal Migratory Pelagic (CMP) Resources of the Gulf and South Atlantic Region, as prepared by the Gulf Council and the South Atlantic Fishery Management Council (South Atlantic Council) (Headboat Reporting Framework). If implemented, this rule would modify the recordkeeping and reporting requirements for headboat owners and operators who fish for species managed by the Gulf Council through the previously mentioned FMPs. These revisions would require fishing records to be submitted electronically (via computer or internet) on a weekly basis or at intervals shorter than a week if notified by the NMFS' Southeast Fisheries Science Center (SEFSC) Science and Research Director (SRD), and would prohibit headboats from continuing to fish if they are delinquent in submitting reports. The purpose of this rule is to obtain timelier fishing information from headboats to