

discussions designed to elicit information about problems or concerns with the regulation (or certain aspects thereof) and provide an opportunity for sharing ideas regarding how to address those issues. The Workshop is not intended [to] develop detailed alternatives or to obtain consensus on regulatory proposals. Upon the conclusion of the Workshop, the Board shall provide LSC staff with policy guidance on the issues discussed to aid staff in the development of the Draft Notice of Proposed Rulemaking ("NPRM").

67 FR 69762, 69763 (November 19, 2002).

During the first workshop, the participants had a wide-ranging discussion and identified a number of issues. These can be summarized as follows:

- The importance of and reason for having a client grievance process, including how the client grievance process also can be an important part of a positive client/applicant relations program and serve as a source of information for programs and boards in assessing service and setting priorities;
- Whether programs can be more "proactive" in making clients and applicants aware of their rights under the client grievance procedure, but do so in a positive manner that does not create a negative atmosphere at the formation of the attorney-client relationship. It was noted that while informing clients of their rights can be empowering, suggesting at the outset that they may not like the service they receive is not conducive to a positive experience. Query whether an "ombudsman" position would be appropriate in this context;
- It is unclear how some complaints should be categorized. Is a complaint that a recipient refused to take an appeal for a client represented at the trial or initial hearing level a complaint about the manner or quality of service or a complaint about the denial of service?;
- The appropriate role of the governing body in the client grievance/client relations process;
- Challenges presented in providing proper notice of the client grievance procedure to applicants and clients who are served only over the telephone and/or email/internet interface;
- Application of the process to Limited English Proficiency clients and applicants;
- Whether and to what extent it is appropriate for the composition of a grievance committee to deviate from the approximate proportions of lawyers and clients on the governing body, e.g. by a higher proportion of clients than the governing body has generally;

- Challenges presented by a requirement for in-person hearing and what other options may be appropriate;

- Whether the limitation of the grievance process related to denials of service to the three enumerated reasons for denial in the current rule is too limited given the wide range of reasons a program may deny someone service;

- Whether the regulation appropriately addresses issues of client confidentiality in LSC access to complaint files;

- Whether the grievance process should include cases handled by non-staff such as PAI attorneys, volunteers, attorneys on assignment to the grantee (often as part of a law firm pro bono program);

- Whether and to what extent it is appropriate for a recipient to abrogate the client grievance process, e.g., where the recipient is facing potential litigation requiring notification to the malpractice insurance carrier or where the complainant poses a reasonable threat to the health and safety of recipient employees or governing body members;

- When does an inquiry become an application for service for which there could be a denial and a grievance process? Sometimes a person who calls a program is not clear about whether they just want some information or are actually seeking legal assistance, and other times if a caller asks about something the program does not handle, they may hang up or be referred to another provider before ever going through an intake process;

- Whether and to what extent it is appropriate for a grantee to provide assistance to a client/applicant in the filing of a complaint; and

- Whether and to what extent it is appropriate for a grantee to provide assistance to a client at a grievance hearing.

With this notice, LSC is inviting expressions of interest from the interested stakeholder community to participate in a second Rulemaking Workshop. This second Workshop is intended to further explore issues identified during the first Workshop, along with identifying any issues which may not have been discussed in the first Workshop. LSC is particularly interested in soliciting further input from both client representatives and LSC programs, especially hotline-only programs and others programs where in-person contact between staff and clients/applicants is difficult or non-existent (such as in service areas with widely disbursed and rural client populations), on the issues and

challenges presented by the client grievance procedure and regulation.

Expressions of interest should be forwarded in writing to Victor M. Fortuno, Vice President & General Counsel, Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007. Such expressions of interest may be alternatively sent via e-mail to [vfortuno@lsc.gov](mailto:vfortuno@lsc.gov) or via fax to 202-337-6831, but must be received by close of business on December 2, 2005. LSC will select participants shortly thereafter and will inform all those who expressed interest of whether or not they have been selected.

The Workshops will be open to public observation but only persons selected will be allowed to participate. Participants are expected to cover their own expenses (travel, lodging, etc.). LSC may consider providing financial assistance to participants for whom travel costs would represent a significant hardship and barrier to participation. Any such person should so note in his/her expression of interest for LSC's consideration.

**Victor M. Fortuno,**

*Vice President & General Counsel.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Island Marble Butterfly as Threatened or Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the island marble butterfly (*Euchloe ausonides insulanus*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific information indicating that listing the island marble butterfly may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species, and we will issue a 12-month finding to determine if the petitioned action is warranted. To assist and ensure that the review is comprehensive, we are soliciting information and data regarding this species.

**DATES:** The finding announced in this document was made on February 13, 2006. To be considered in the 12-month finding for this petition, data, information, and comments must be submitted to us by April 14, 2006.

**ADDRESSES:** The complete file for this finding is available for inspection, by appointment, during normal business hours at the Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Drive, SE., Suite 102, Lacey, WA 98503. Please submit any new information, materials, comments, or questions concerning this species or this finding to the above address, or via electronic mail at [islandmarble@fws.gov](mailto:islandmarble@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Ken Berg, Manager, at the above address (see **ADDRESSES** section above), by telephone (360-753-4327), or by facsimile (360-753-9405). For more information, go to <http://www.fts.gsa.gov/frs>.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the **Federal Register**.

This finding is based on information included in the petition and information readily available to us at the time of the petition review. Our review of a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the "substantial scientific information" threshold. Our standard for substantial scientific information with regard to a 90-day listing petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)).

We have to satisfy the Act's requirement that we use the best available science to make our decisions. However, we do not conduct additional research at this point, nor do we subject the petition to rigorous critical review. Rather, at the 90-day finding stage, we accept the petitioner's sources and characterizations of the information, to the extent that they appear to be based on accepted scientific principles (such as citing published and peer reviewed articles, or studies done in accordance

with valid methodologies), unless we have specific information to the contrary. Our finding considers whether the petition states a reasonable case for listing on its face. Thus, our 90-day finding expresses no view as to the ultimate issue of whether the species should be listed.

##### **Petition**

On December 11, 2002, we received a petition dated December 10, 2002, requesting that we list the island marble butterfly (*Euchloe ausonides insulanus*) as an endangered species, and that critical habitat be designated concurrently with the listing. The petition, submitted by the Xerces Society, Center for Biological Diversity, Friends of the San Juans, and Northwest Ecosystem Alliance, was clearly identified as a petition for a listing rule, and contained the names, signatures, and addresses of the requesting parties. Included in the petition was supporting information regarding the species' taxonomy and ecology, historical and current distribution, present status, and potential causes of decline and active imminent threats. We sent a letter, acknowledging receipt of the petition, to the Xerces Society on January 22, 2003. In our response we advised the petitioners that we had insufficient funds to respond to the petition at that time and that we would not be able to begin processing the petition in a timely manner.

On April 5, 2004, we received a 60-day notice of intent to sue for three butterfly species, the Taylor's checkerspot (*Euphydryas editha taylori*), the mardon skipper (*Polites mardon*), and the island marble. On October 18, 2004, a complaint for declaratory and injunctive relief was filed by the plaintiffs that specifically addressed conservation actions needed for the island marble butterfly. We negotiated a stipulated settlement agreement, dated February 28, 2005, to work cooperatively with our conservation partners to conduct surveys and to assess the ecological needs of the island marble during 2005. We also agreed to submit the petition finding to the **Federal Register** by February 5, 2006, and if the 90-day finding was found to be substantial, to submit a 12-month finding by November 5, 2006. This notice constitutes our 90-day finding for the petition to list the island marble butterfly.

##### **Species Information**

The island marble butterfly (island marble) is a member of the Pieridae family, subfamily Pierinae, primarily consisting of white and yellow

butterflies. Prior to its rediscovery in 1998, at American Camp, a 1,223-acre (ac) (495-hectare (ha)) unit of the San Juan Island National Historic Park in Washington State, the last observation of the island marble was on Gabriola Island, British Columbia, in 1908. Island marble larvae are known to feed on two types of plants: (1) Nonnative annual mustards such as *Brassica campestris* (field mustard) and *Sisymbrium altissimum* (tall tumble-mustard) in the uplands and (2) *Lepidium virginicum* var. *menziesii* (native tall peppergrass) found at the edge of coastal lagoons just above the marine shoreline of San Juan Channel, north of American Camp (Lambert 2005a; Miskelly 2005).

Between April 13 and July 13, 2005, WDNR, the Service, and the Xerces Society conducted more than 225 surveys for the island marble at 110 sites in 6 counties of northwest Washington. Sites were selected based on proximity to known island marble occurrences and the presence of grassland vegetation containing host plants. Adult butterflies were observed from April 21 to June 6, eggs were observed from April 25 to June 14, and larvae were observed from May 8 to July 1 (Miskelly 2005). Based on the distribution of sites where island marble butterflies were found and the habitat linkages or barriers between these sites, it is believed that there are four populations of island marble butterflies, two on San Juan Island and two on Lopez Island (Miskelly 2005). At three of the four populations fewer than 10 adults were observed (Miskelly 2005). The largest and most concentrated population of island marbles was observed on the grasslands of American Camp and the adjacent Cattle Point Natural Resources Conservation Area (NRCA), owned by the WDNR, on San Juan Island. Pyle (2004) observed "at least 100 individuals" at American Camp in 2003, based on five site visits. Lambert (2005a, 2005b, 2005c) reported total transect counts at American Camp of 270 adults and 194 adults in 2004 and 2005, respectively.

##### **Discussion**

Section 4 of the Act and its implementing regulations (50 CFR 424) set forth the procedures for adding species to the Federal list of endangered and threatened species. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. The five listing factors are: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial,

recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence.

The Service believes that substantial information exists that threats to the species exist under one or more of the five listing factors. Because so few populations and individuals exist, the species may be especially vulnerable to random natural events.

The petitioners state that many, if not most, insect populations normally experience large fluctuations in size (Ehrlich 1992; Schultz 1998) with weather, predation, and disease potentially causing annual changes in butterfly numbers of an order of magnitude or more. They go on to state that normal population fluctuations, coupled with habitat alteration or loss can result in population extirpations (Hanski *et al.* 1995). Based on this, the petitioners conclude that, with only one known population, this butterfly is extremely vulnerable to extinction.

At the time the petition was written, American Camp was the only area known to be occupied by island marbles. Extensive surveys conducted after the petition was submitted revealed 3 additional areas that were occupied (Miskelly 2005). Fewer than 10 adults were observed in each of these areas (Miskelly 2005). Miskelly (2005) suggests that the three satellite populations found in 2005 may not be self sustaining, and that conservation of the island marble is largely dependent on having a viable population at American Camp.

### Finding

On the basis of our review, we find that the petition and information in our files presents substantial information indicating that listing of the island marble butterfly may be warranted. The small number of individuals remaining and their limited distribution increases extinction risk and makes the species especially vulnerable to threats that may exist under one or more of the five listing factors.

### Public Information Solicited

When we make a finding that substantial information is presented to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available science and commercial information, we are soliciting additional information on the island marble butterfly. We are requesting additional

information, comments, and suggestions concerning the status of the island marble butterfly from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties. We are seeking information regarding the species' historical and current status and distribution, its biology and ecology, ongoing conservation measures for the species and its habitat, and threats to the species and its habitat.

If you wish to comment or provide information, you may submit your comments and materials concerning this finding to our Western Washington Fish and Wildlife Office (*see ADDRESSES* section above).

Our practice is to make comments and materials provided, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your submission. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address (*see ADDRESSES* section above).

### References Cited

A complete list of all references cited is available, upon request, from our Western Washington Fish and Wildlife Office (*see ADDRESSES* section above).

### Author

The primary author of this notice is Ted Thomas, Western Washington Fish and Wildlife Office (*see ADDRESSES* section above).

### Authority

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

Dated: February 3, 2006.

**Marshall P. Jones,**

*Deputy Director, Fish and Wildlife Service.*

[FR Doc. E6-1930 Filed 2-10-06; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 060201021-6021-01; I.D. 100405C]

RIN 0648-AT73

### Atlantic Highly Migratory Species; Atlantic Swordfish Quotas

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

**ACTION:** Proposed rule; request for comments; notice of public hearings.

**SUMMARY:** NMFS proposes to amend the regulations governing the North and South Atlantic swordfish fisheries to modify the North and South Atlantic Swordfish quotas for the 2005 fishing year (June 1, 2005, through May 31, 2006) to account for updated landings information from the 2003 and 2004 fishing years. This action is necessary to ensure that current quotas are based on the most recent landings information and account for any underharvest from previous fishing years, consistent with the regulations at 50 CFR part 635. Additionally, this action proposes to implement a subsequent recommendation by the International Commission for the Conservation of Atlantic Tuna (ICCAT) (Recommendation 04-02), which extends the 2005 North Atlantic swordfish management measures. The recommendation specifies that the extension of the 2005 North Atlantic swordfish quota is through the 2006 fishing year, but this proposed action would extend the 2005 North Atlantic swordfish management measures until ICCAT provides a recommendation for a new U.S. allocation of the North Atlantic swordfish total allowable catch. ICCAT's Standing Committee for Research and Statistics (SCRS) plans to conduct a stock assessment for North Atlantic swordfish in 2006. If the stock assessment is completed as anticipated, ICCAT intends to review the results during the Fall 2006 meeting and develop new management recommendations. In the event that ICCAT does not recommend a new U.S. allocation, this action proposes to extend the 2005 North Atlantic swordfish management measures until such time as ICCAT provides the recommendation.