

OCT - 3 2005



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Silver Spring, MD 20910

Michael Hirshfield, Ph.D.  
Vice-President for North American Oceans and Chief Scientist  
Oceana  
2501 M Street NW, Suite 300  
Washington, D.C. 20037

Dear Dr. Hirshfield:

Thank you for your August 4, 2005 letter consisting of a Request for Correction pursuant to Section 515 of Public Law 106-554 (the Information Quality Act (IQA)), and Petition for Rulemaking pursuant to the Administrative Procedure Act (5 U.S.C. 553(e)). This response addresses your Request for Correction; the Petition for Rulemaking will be addressed in a separate letter.

The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) has carefully reviewed the request for correction, which concerns sea turtles and 17 biological opinions, and concluded that it does not meet the minimum requirements for a proper request as specified in NOAA's Information Quality Guidelines (NOAA Guidelines), as discussed below. Therefore, pursuant to the NOAA Guidelines, we will not be taking any further action on your August 4 request for correction.

Your request for correction fails to comply with two requirements specified in the NOAA Guidelines. In particular, an initial request for correction must include: (1) an accurate citation to or description of the *particular* information disseminated which is the subject of the request, and (2) a *specific* statement of how the information at issue fails to comply with the applicable guidelines and why the requester believes the information is not correct (NOAA Guidelines, Part III.B.3.c, e, emphasis added).

Oceana's request for correction identified 17 biological opinions, but largely fails to cite to or describe information in, or relied upon in, any of the documents disseminated to the public. The request mentions "information concerning the population status, fisheries impacts, permissible incidental take, and jeopardy status of loggerhead and other sea turtles ..." but does not generally identify, beyond these broad references, specific portions of the biological opinions that do not comply with the NOAA Guidelines.

Correction requests must cite specific information to allow an objective review by the agency. For an objective review, it is important to evaluate the context in which the agency presented the information at issue. In this instance, NMFS must consider the analysis that accompanies the information believed to be inconsistent with the NOAA Guidelines, as found in the biological opinion(s). Oceana's request lacks sufficient specificity to allow NMFS to perform this type of contextual review. Rather it would require the agency to speculate as to the intended scope.



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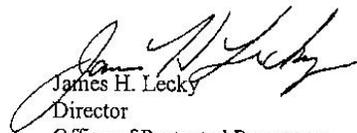
hindering efforts to identify and consider any possibly noncompliant information in a timely manner.

In addition, the NOAA Guidelines require that, for each cited portion of the biological opinions or supporting information, the requestor must provide a statement of how the information fails to comply with the applicable portion of the NOAA guidelines (NOAA Guidelines, Part III.B.3.e). The previously noted failure to cite or describe specific provisions prevents this requirement from being satisfied.

In the future, in order to facilitate our review, we recommend that you limit a request for correction to the information intended for consideration solely for purposes of that request.

Thank you for your continuing interest in sea turtles and NMFS' programs.

Sincerely,

  
James H. Lecky  
Director  
Office of Protected Resources