

# GRAY WHALE

# ACTION ALERT!

## VERY URGENT ACTION ALERT

***Ten days ago the California Gray Whale Coalition filed a federal petition with the National Marine Fisheries Service (NMFS) seeking a depleted species designation under the Marine Mammal Protection Act for the Eastern North Pacific Gray Whale.***

The petition is over 14,000 words and is extremely comprehensive. It has been reviewed by several leading scientists. Listing the gray whales as depleted would change the entire picture forcing much better management of the whales and causing the US delegation to pause in its efforts to continue providing the Russians with a quota of 140 whales a year. Yesterday, November 9, NMFS published a notice in the Federal Register acknowledging receipt of the petition and soliciting public comment.

***Incredibly, the comment period is currently limited to 14 days with a deadline of November 24, the day before the U.S. Thanksgiving holiday.***

The legislation says NMFS is required by rule to provide an initial finding on the petition within 60-days of the petition's receipt.

In a phone call I made to Tom Eagle, acting head of Marine Mammal Division today, he informed me that NMFS needed to make the comment period very short as the petition was so comprehensive and would require more than 40 days to adequately respond. As I pointed out, any group/person wishing to comment had the same requirements and therefore the most reasonable resolution would be a 30 day comment period with 30 days for NMFS. He said it was not his decision and that requests for an extension should be made as per the emails below.

***It is now VITALLY URGENT that your organization consider submitting a request for a 15 day extension in the deadline for public comments on the petition.***

If granted, the new deadline would be approximately December 9 which would be well after the Thanksgiving holiday. If you are able to help in this effort, please send courteous letters to Mr. Eric Schwaab, Assistant Administrator for Fisheries, National Marine Fisheries Service (contact information below) requesting a 15 day extension in the comment deadline.

In preparing your request, you may want to consider including the following justifications for the requested extension:

1. Given the length and complexity of the petition, providing the public with an additional 15 days to comment on the petition is beneficial to the public, will benefit NMFS by ensuring that it receives substantive input, and will still leave the agency with approximately 30 days to make its initial finding. Given the deadline NMFS is under to respond to the petition, providing the public 30 days to comment on the petition and NMFS 30 days to review comments and to make its finding seems only fair.
2. By extending the deadline by 15 days it will allow members of the public, wildlife protections organizations, and scientists an opportunity to review the petition, review the supplementary information, obtain additional evidence that they may want to include in their comments, and to prepare their comments after the Thanksgiving holiday. The current deadline, if not extended, will force the public to prepare their comments in haste prior to the holiday meaning that the input will not be as comprehensive as possible making it of less value to NMFS.
3. The petition notice published in the Federal Register provides a link to the 2008 Stock Assessment Report for gray whales as supplementary information.

There is a draft 2010 Stock Assessment Report for gray whales that NMFS did not cite to even though the 2010 report



contains more up-to-date information (though not necessarily accurate in the opinion of the CA Gray Whale Coalition) about the species.

If NMFS agrees to extend the deadline, you may want to suggest that it also provide a link to the 2010 Draft Stock Assessment Report in its published notice. Tom Eagle agreed in our phone conversation that this was a significant lapse on the part of NMFS.

4. You may want to remind Mr. Schwaab that, in 2002, when NMFS received a petition from the National Wildlife Federation and others to list the Alaska population of transient killer whales or orcas as a depleted species under the MMPA, it provided a 30 day public comment period prior to making its initial finding on the petition.

See 67 Fed Reg 70407.

If you are able to submit a request, please address it to:

**Mr. Eric Schwaab**  
**Assistant Administrator for Fisheries**  
**National Oceanic and Atmospheric Administration**  
**National Marine Fisheries Service**  
**1315 East-West Highway**  
**Silver Spring, MD 20901**

Email your request to:  
[eric.schwaab@noaa.gov](mailto:eric.schwaab@noaa.gov)

Also carbon copy or cc your request to:  
[shannon.bettridge@noaa.gov](mailto:shannon.bettridge@noaa.gov) and [greg.silber@noaa.gov](mailto:greg.silber@noaa.gov)

Thank you so much for your help. I will be sending out a second alert very shortly asking for comments in support of the depleted petition. Details of the petition and the Federal Register notice can be found at: <http://regulations.justia.com/view/205804/>. Federal register notice November 9, 2010 Volume 75, Number 216.

**PLEASE CIRCULATE THIS ALERT FAR AND WIDE.**

Regards, Sue Arnold  
California Gray Whale Coalition  
Palo Alto, CA

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<http://www.facebook.com/home.php?#!/group.php?gid=112941142067450>

**ACTION** JOIN OUR FACEBOOK CAUSE

<http://www.causes.com/causes/483151>

**ACTION** MAKE A DONATION AT OUR WEBSITE

[www.californiagraywhalecoalition.org/donations.shtml](http://www.californiagraywhalecoalition.org/donations.shtml)