

Dated: September 15, 1993.

W. T. Leland,

Rear Admiral, U.S. Coast Guard, Commander,
Fifth Coast Guard District.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

50 CFR Part 227

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List Five Stocks of Oregon Coho Salmon

AGENCY: National Marine Fisheries
Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of petition and
request for information on expanded
status review.

SUMMARY: NMFS has received a petition to list five stocks of Oregon coho salmon (*Oncorhynchus kisutch*) and to designate critical habitat under the Endangered Species Act of 1973 (ESA). In accordance with section 4 of the ESA, NMFS has determined that the petition presents substantial scientific information indicating that the action may be warranted. Moreover, in light of the general decline in many west coast populations of coho salmon, NMFS has determined that it is now prudent to conduct a comprehensive status review that will assess coho salmon stocks in Washington, Oregon, and California. To ensure that the expanded status review is comprehensive, NMFS is soliciting information and data regarding this action.

DATES: Comments and information must be received by December 27, 1993.

ADDRESSES: Copies of the petition are available from, and comments should be submitted to Merritt Tuttle, Chief, Environmental and Technical Services Division, NMFS, 911 NE 11th Avenue, room 620, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 230-5430; Jim Lecky, NMFS, Southwest Region, (310) 980-4015; or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-2322.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the ESA contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to or remove a species from the

List of Endangered and Threatened Wildlife and to designate critical habitat. Section 4(b)(3)(A) of the ESA requires that to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary determines whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted.

Petition Received

On July 21, 1993, the Secretary of Commerce received a petition from Oregon Trout, Portland Audubon Society, and Siskiyou Regional Education Project (Oregon Petition) to list five stocks of Oregon coho salmon, and to designate critical habitat under the ESA. The five stocks are identified as indigenous, naturally spawning populations of coho salmon in (1) the Clackamas River, (2) Umpqua River, (3) Coquille and Coos rivers, (4) rivers between the Nehalem and Umpqua rivers, and (5) rivers south of Cape Blanco. As required for a petition to list a Pacific salmon stock (May 18, 1992, 57 FR 21056), the petition presents information on and discusses whether the petitioned population qualifies as a "species" under the ESA, in accordance with NMFS' "Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon" (November 20, 1991, 56 FR 58612). The Assistant Administrator for Fisheries, NOAA, has determined that the petition presents substantial scientific information indicating that the petitioned action may be warranted.

Expanded Status Review

On March 11, 1993, NMFS received a petition from the Santa Cruz County Planning Department (California Petition) to list the central California coho salmon populations occurring in Scott and Waddell Creeks (Santa Cruz County, CA) as endangered and to designate critical habitat. The Santa Cruz County Planning Department prepared the petition at the request of the Santa Cruz County Fish and Game Advisory Commission after a year of investigations and three local public hearings. On June 18, 1993, NMFS published (58 FR 33605) its intent to conduct a status review on California coho salmon stocks occurring in Scott and Waddell Creeks.

In many west coast rivers, including those identified in the aforementioned petitions, coho salmon abundance has declined substantially from historical levels. Therefore, NMFS believes it is prudent to prepare a comprehensive status review which will address coho salmon stocks in Oregon, California, and

Washington. This expanded status review will allow NMFS to conduct a more thorough assessment of the ecological and genetic diversity of west coast coho salmon populations, and identify evolutionarily significant units of the species.

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, a species can be determined to be endangered or threatened for any of the following reasons: (1) 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) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are made solely on the best scientific and commercial data available after taking into account any efforts made by any state or foreign nation to protect the species.

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data, NMFS is soliciting information and comments concerning (1) whether or not any stocks qualify as "species" under the ESA (November 20, 1991, 56 FR 58612) and (2) whether or not any stock is endangered or threatened based on the above listing criteria. Specifically, NMFS is soliciting information in the following areas: influence of historical and present hatchery fish releases on naturally spawning stocks of coho salmon; separation of hatchery and natural coho salmon escapement; alteration of coho salmon freshwater and marine habitats; disease epizootiology of coho salmon, especially in regards to ceratomyxosis; age structure of coho salmon, migration timing and behavior of juvenile and adult coho salmon; and interactions of coho salmon with other salmonids. Copies of the petition are available (see ADDRESSES).

It is important to note that the determination to list a species is based solely on the basis of the best available scientific and commercial information regarding a species' status without reference to possible economic or other impacts of such a determination (50 CFR 424.11(b)).

Critical Habitat

NMFS is also requesting information on areas that may qualify as critical habitat for all stocks of coastal coho

salmon off California, Oregon, and Washington. Areas that include the physical and biological features essential to the recovery of the species should be identified. Areas outside the present distribution should also be identified if such areas are essential to the recovery of the species. Essential features should include but are not limited to:

- (1) Space 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 breeding, reproduction, rearing of offspring; and generally,
- (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 is requesting 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 economic cost to be considered in the critical habitat designations under the ESA is the probable economic impact "of the (critical habitat) designation upon proposed or ongoing activities" (50 CFR 424.19). NMFS must consider the incremental costs specifically resulting from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 of the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

Data, information, and comments should include (1) supporting documentation such as maps, bibliographic references, or reprints of pertinent publications, and (2) the commentator's name, address, and association, institution, or business.

Dated: October 21, 1993.

William W. Fox, Jr.,

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

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50 CFR Part 641

[Docket No. 931070-3270; ID 100493A]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 7 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Amendment 7 would require dealers who purchase Gulf of Mexico reef fish from fishing vessels to obtain Federal permits and maintain records of such purchases; restrict sale/purchase of reef fish from the exclusive economic zone (EEZ) to permitted vessels/dealers; allow the transfer of a fish trap endorsement with the transfer of the vessel's reef fish permit to an immediate family member; and allow the transfer or revision of a red snapper endorsement on a reef fish vessel permit upon the disability or death of a vessel owner or, in certain circumstances, an operator. The intended effects of this rule are to enhance enforceability of the regulations, improve quota monitoring of reef fish species, allow families that have historically fished in the Gulf of Mexico with fish traps to continue such fishing; and alleviate hardships caused by disability or death of owners/operators no longer able to use red snapper endorsements.

DATES: Written comments must be received on or before December 6, 1993.

ADDRESSES: Comments on the proposed rule should be sent to Robert Sadler, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Comments on the information collection requirements that would be imposed by this rule should be sent to Edward E. Burgess, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for NOAA).

Requests for copies of Amendment 7, which includes an environmental assessment/regulatory impact review on this action, and for copies of a minority report submitted by three members of the Gulf of Mexico Fishery Management Council (Council) should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT:

Robert Sadler, 813-893-3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Dealer Permits and Restrictions on Sales

Because of persistent allegations that a large portion of landings of reef fish are not being accounted for under the current quota monitoring system, the Council proposes to require dealers who receive from fishing vessels reef fish harvested from the EEZ of the Gulf of Mexico to obtain permits and maintain records of their purchases of such reef fish. A dealer is defined at 50 CFR 620.2 as a person who first receives fish by way of purchase, barter, or trade. The term would include restaurants that buy directly from fishing vessels. To obtain a dealer permit, an applicant would be required to have a permanent facility at a fixed location. This requirement would preclude a dealer from operating solely from a vehicle.

Permitted dealers would be required to maintain records of reef fish received from fishing vessels. Such records would be required to be retained at dealers' principal places of business for at least 1 year and would be required to be provided for inspection upon the request of an authorized officer or the Science and Research Director. "Science and Research Director" is defined as the Science and Research Director, Southeast Fisheries Science Center, NMFS, or a designee. Current designees include NMFS port agents and data collection agents of cooperating states. The records would show each fishing vessel from which reef fish were received by date, species and quantity. In addition, vehicles used to transport reef fish from fishing vessels to dealers' places of business would be required to carry a copy of the dealers' permits and maintain a record of fishing vessels from which reef fish have been loaded on the vehicle's present trip.

To ensure that reef fish are properly accounted for, the sale of reef fish from a permitted vessel would be allowed only to permitted dealers, and permitted dealers would be allowed to purchase only from permitted vessels.

These requirements would (1) improve quota monitoring by providing a census of reef fish dealers; (2) enhance the enforceability of the vessel trip limits; and (3) aid in verifying required vessel logbook submissions.