

with the requirements of S7.1.2. A Type 2 seat belt assembly is considered an integrated assembly if the seat frame is part of each of the seat belt assembly anchorages, as defined in S3 of Standard No. 210 (49 CFR 571.210).

S7.1.2.2 As an alternative to meeting the requirement of S7.1.2, a Type 2 seat belt assembly shall provide a means of automatically moving the webbing in relation to either the upper anchorage, or the lower anchorage nearest the intersection of the torso belt and the lap belt. The distance between the midpoint of the webbing at the contact point of the webbing and the anchorage at the extreme adjustment positions shall be not less than five centimeters, measured linearly.

Issued on: April 21, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 940408-4108; LD. 031594A]

Endangered and Threatened Species; Coho Salmon in Scott and Waddell Creeks, CA

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

ACTION: Notice of determination; status review.

SUMMARY: NMFS has determined that the Scott and Waddell Creeks coho salmon populations in central California do not constitute a "species" under the Endangered Species Act (ESA) and, therefore, do not qualify for listing under the ESA at this time. However, as part of a coast-wide status review NMFS is conducting of coho salmon populations in California, Idaho, Oregon and Washington, NMFS will determine if the two California populations are part of a larger evolutionarily significant unit that qualifies for protection under the ESA. A review of Oregon coho salmon stocks is expected to be completed in July 1994 and all stocks by October 1994.

ADDRESSES: Send requests for technical reports to Craig Wingert, NMFS, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Office of Protected Resources, NMFS, 301/713-2322 or Craig Wingert, NMFS, Southwest Region, 310/980-4021.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1993, NMFS received a petition from the Santa Cruz County Planning Department (petitioner) to add naturally spawning Scott and Waddell Creeks coho salmon (*Oncorhynchus kisutch*) to the list of threatened and endangered species and to designate critical habitat under the ESA. The petition contained information on electrofishing and trapping catch data to demonstrate declining population trends; provided information on geographic location, spawning distribution, and anadromous life history to illustrate evolutionary significance; and provided information on geographical isolation, distinctive life history and body size characteristics, and effects of hatchery fish to illustrate reproductive isolation. NMFS published a Federal Register document (58 FR 33605, June 18, 1993) indicating that the petition presented substantial scientific information that suggested listing might be warranted. To ensure a comprehensive review, NMFS solicited information and data concerning the present and historic status of the Scott and Waddell Creeks coho salmon, and whether this stock qualifies as a "species" under the ESA. NMFS also requested information on areas that may qualify as critical habitat for the Scott Creek and Waddell Creeks coho salmon. NMFS obtained information and data from several State, Federal, and local sources concerning the historic and present coho salmon abundance and distribution, water quality, fishery management practices, land management practices, hatchery management impacts, life history characteristics, and stock identification.

Biological Information

The NMFS Southwest Region prepared a technical report entitled: "Status Review for Scott Creek and Waddell Creek Coho Salmon", which provides more detailed information, discussion, and references. The report is available upon request (see ADDRESSES) and is summarized below.

Scott Creek and Waddell Creek are neighboring watersheds that flow into the Pacific Ocean within 4 miles of one another. These two streams are located on the north coast of Santa Cruz County approximately 15 miles to the north of the City of Santa Cruz, California. Scott

Creek's main stem is 18 miles long, with 35 miles of tributary length, and a watershed that covers 35 square miles. Waddell Creek's main stem is 12 miles long, with 45 miles of tributary length, and a watershed that covers 26 square miles.

Coho salmon (*Oncorhynchus kisutch*) are anadromous along the Pacific coast from Chamalu Bay, Mexico, to Point Hope, Alaska, through the Aleutians, and from the Anadyr River, U.S.S.R., south to Hokkaido, Japan. In California, coho salmon historically used most of the accessible coastal streams from Monterey County north to the Oregon border.

There are two basic life history spawning strategies for coho salmon: Short-run populations which utilize the smaller coastal streams, and long-run coho that will migrate up to 320 miles to utilize tributaries of large coastal rivers. Coho salmon may begin to enter freshwater in September but usually enter from October to March, peaking in December and January. In Scott and Waddell Creeks, spawning of coho salmon primarily takes place from the end of December through mid-February, usually coinciding with increased storm flows. After spending one year in freshwater, juvenile coho salmon migrate to sea where they usually spend two growing seasons before they return as adults to freshwater to spawn as 3-year-old fish. A relatively small portion of adult male coho salmon return to spawn after only one year at sea, and are termed jacks or grilses.

Consideration as a "Species"

To qualify for listing as a threatened or endangered species, the Scott and Waddell Creeks coho salmon populations would have to be a "species" under the ESA. The ESA defines a "species" to include any "distinct population segment of any species of vertebrate * * * which interbreeds when mature." NMFS published a policy (November 20, 1991; 56 FR 58612) on how it will apply the ESA species definition in evaluating Pacific salmon. This policy states that a salmon population will be considered distinct, and hence a species under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species.

The population must satisfy two criteria to be considered an ESU:

- (1) It must be reproductively isolated from other conspecific population units; and
- (2) It must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need

not be absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units.

The second criterion is met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. Further guidance on the application of this policy is contained in, "Pacific salmon (*Oncorhynchus* spp.) and the Definition of Species under the Endangered Species Act," which is available upon request (see ADDRESSES).

Reproductive Isolation

For this criterion, NMFS considered information provided by the petitioner, information provided by knowledgeable sources, scientific documents, and commercial reports concerning the isolation of Scott and Waddell Creeks from other coho salmon spawning streams, the distance of the Scott and Waddell Creek populations to other coho salmon populations, the time of peak spawning, and a north-south genetic difference.

Available information does not make a strong case for reproductive isolation of Scott and Waddell Creeks coho salmon. Marked coho salmon from Scott and Waddell Creeks have been caught in the Noyo River 200 miles to the north near Fort Bragg, CA, and in the San Lorenzo River 15 miles to the south in the City of Santa Cruz, CA. Therefore, distance in the ocean is not a good measure of reproductive isolation from other coho salmon populations.

The San Lorenzo River coho salmon population is primarily a hatchery maintained population that has been extensively stocked with coho salmon from numerous other northern watersheds for over 70 years. Although the loss of other coho salmon populations south of San Francisco Bay has isolated these populations, the distance of the Scott and Waddell Creeks populations to other north-coast coho salmon streams is well within their migration range based on their reported straying over the last 50 years.

Many small coastal streams in California and Oregon are closed by sand bars at their mouths during a portion of the year. Generally, fish cannot enter the stream until the sand bar is broken, usually by the first heavy rains. Although the formation of a sand bar may temporarily act as a migration barrier, it does not represent a reproductive isolation mechanism.

The timing of coho salmon spawning runs may be partly genetically based, but it is also subject to modification by streamflow, water temperature, and other environmental variables. Data

from other river systems indicate that the timing of spawning migrations is generally attributed to an increase of stormflow runoff (usually occurring earlier in the northern range of coho salmon populations), which allows the salmon to migrate through the lagoons/estuaries and higher up the river systems to their natal tributaries.

Since studies in the 1930's and 1940's, there has been an apparent shift in peak spawning migration timing by coho salmon in Scott and Waddell Creeks to several weeks later in the season. Spawning migrations in most California coastal streams and rivers have shifted to later in the spawning season, possibly due to degraded conditions within the watersheds, rivers, and estuaries. The loss of large woody debris within stream systems which helps flush out sediment and creates deep holding pools, excessive diversion of drought limited flows which increases water temperatures, and a reduction in area and volume of most estuaries and rivers due to filling with sediment, may have created conditions in which coho salmon can no longer access or survive in rivers until the start of heavy winter rains. Although other explanations are possible, the year-to-year variation in the timing of coho spawning migrations in Scott and Waddell Creeks are similar and within the range of run times reported for other coho salmon populations in California and Oregon. The modest difference in peak spawn timing cited by the petitioner may reflect (or may be the result of) reproductive isolation, but the best available data is inconclusive regarding the cause of this difference.

The petitioner cited evidence for the existence of a genetic difference between the Scott and Waddell Creeks coho salmon populations and other coho salmon populations in California.

However, the results from the genetic study cited by the petitioner showed that the greatest differentiation, though quite low, was between Scott Creek and Waddell Creek, the two California populations that are in the closest proximity. The results from the limited number of allozyme studies conducted on coho salmon populations in California are similar to those obtained for coho populations in Oregon, Washington, and British Columbia. Little pattern in the distribution of variant alleles or genetic variation was observed, and only weak associations between genetic identity and geographic location were found. The estimated average number of individuals exchanging genes among the California populations of coho salmon studied was

greater than 1.0 fish per generation, which is large enough to prevent the tendency for fixation of different alleles in different populations. Overall, the genetic data compiled for this status review failed to demonstrate that the Scott and Waddell Creeks coho salmon populations as a group are distinct from other coastal coho salmon populations.

Evolutionary Significance

NMFS considered information provided by the petitioner on distinctive differences in habitat characteristics and life history traits between Scott and Waddell Creeks coho salmon and other California coho salmon populations, as well as the effects of hatchery influence on these populations. Distinctive differences in habitat characteristics included spawning in habitats characterized by highly mobile sediment bedloads and extreme hydrological cycles. Distinctive life history characteristics included the reduced number of eggs produced by female coho salmon that spawn in Scott and Waddell Creeks.

Many of the habitat characteristics and life history traits exhibited by coho salmon in Scott and Waddell Creeks are found in other coho salmon populations in California. Many of the streams and rivers in California exhibit similar elevated summer/fall water temperatures and extreme winter-flow bedload movements and hydrologic cycles. The extreme hydrologic cycles and resultant bedload movement found in Scott and Waddell Creeks undoubtedly affect the success of early spawning coho salmon in these watersheds. However, these conditions are similar to those found in most of California's coastal streams and rivers. Excessive use or diversion of drought limited flows in Scott and Waddell Creeks, as well as other systems, has probably exacerbated the problems created by poor land use management and stream habitat conditions.

Also, we have no data to indicate that Scott and Waddell Creeks coho salmon egg production is related to the smaller average size of these fish in comparison to other coastal coho salmon populations. The number of eggs produced by a female coho salmon, in and by itself, does not indicate that there are differences between populations from other watersheds. Each river system is highly variable in year to year production and a smaller size of adult spawner may result from the overharvesting of larger individuals. The number of eggs produced by Scott Creek and Waddell Creek coho salmon were within the range reported from

other coho salmon populations along the entire west coast.

NMFS found some records of hatchery releases of other coho salmon stocks into Scott and Waddell Creeks, as well as most of the central California coastal streams, from the early 1900's through the early 1970's. The limited number of fish stocking records indicated that Scott and Waddell Creeks were planted with approximately a total of 500,000 and 130,000 coho salmon fry and juveniles, respectively, from numerous other watersheds. More than 2,000,000 coho salmon fry and juveniles have been planted in Santa Cruz County streams with coho salmon stocks from Washington, Oregon, and northern California. The magnitude (and likely effect) of early coho salmon fry releases was probably fairly small. However, starting in the 1950's, extensive juvenile coho salmon plants began. Even though Scott and Waddell Creeks have not been planted with outside sources of coho salmon since the early to mid-1970's, the effects of continuous hatchery plants prior to that time may have affected any distinctive phenotypic and life history traits that originally existed in these populations.

Conclusion

After a thorough analysis of all information available, NMFS has determined that the Scott and Waddell Creeks coho salmon populations do not represent a "species" under the ESA. Therefore, a proposal to list these populations under the ESA is not warranted at this time. However, these populations may be part of a larger ESU whose extent has not yet been determined. Whether this larger ESU merits protection under the ESA cannot be determined at this time. NMFS will attempt to identify the larger ESU that contains the Scott and Waddell Creeks coho salmon populations as part of an ongoing status review of all coastal coho salmon populations in California, Oregon, Washington, and Idaho. This status review is being conducted in

response to a petition received July 21, 1993, to list five stocks of coho salmon in Oregon and a petition received October 20, 1993, to list all coho salmon stocks in California, Oregon, Washington, and Idaho.

Dated: April 19, 1994.

Nancy Foster,
Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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50 CFR Part 641

[I.D. 041994B]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 9 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review by the Secretary of Commerce (Secretary). Written comments are requested from the public.

DATES: Written comments must be received on or before June 17, 1994.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702.

Requests for copies of Amendment 9, which includes a regulatory impact review and an environmental assessment, should be sent to the Council, 5401 W. Kennedy Boulevard, suite 331, Tampa, FL 33609-2486, FAX 813-225-7015.

FOR FURTHER INFORMATION CONTACT:
Robert Sadler, 813-893-3161.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared amendment to a fishery management plan be submitted to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving an amendment, immediately publish a notice that the amendment is available for public review and comment. The Secretary will consider public comment in determining approvability of the amendment.

Amendment 9 proposes to:

(1) Authorize the collection of historical red snapper landings data needed to evaluate red snapper effort management alternatives and to identify individuals who may qualify for initial participation in a red snapper effort management regime; and

(2) Extend the current moratorium on reef fish permits and the red snapper endorsement system, including its associated trip and landing limits, through December 31, 1995, unless replaced earlier by a red snapper effort management system. Red snapper commercial landings data for 1990, 1991, and 1992 would be collected from vessel owners or from operators of permitted vessels for which the permit was based on the earned income qualification of an operator. Data would also be collected to identify "historical captains" in the red snapper fishery and to obtain information on their landings of red snapper and their share arrangements with vessel owners.

Proposed regulations to implement Amendment 9 are scheduled for publication within 15 days.

Authority: 16 U.S.C. 1801 et seq.

Dated: April 21, 1994.

David S. Crestin,

Acting Director, Office of Fisheries
Conservation and Management, National
Marine Fisheries Service.

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