SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, Docket 94–44, adopted September 21, 1995 and released September 29, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 76

Cable television.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority for Part 76 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 76.51 Major television markets.

2. Section 76.51 is amended by revising paragraph (a)(32) to read as follows:

* * * * *

(a) * * *

(32) Denver-Castle Rock, Colorado

* * * * *

Federal Communications Commission.

William H. Johnson,

Deputy Chief, Cable Services Bureau.

[FR Doc. 95–24643 Filed 10–3–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[I.D. 092895B]

Endangered and Threatened Species; West Coast Pink Salmon Petition Determination

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

ACTION: Notice of determination.

SUMMARY: NMFS has determined that neither Elwha River nor lower Dungeness River pink salmon, as petitioned, constitute a ''species'' under the Endangered Species Act of 1973 (ESA). However, Elwha River and lower Dungeness River pink salmon are part of a larger evolutionarily significant unit (ESU) that includes all odd-year pink salmon stocks in Washington as far west as the Elwha River and in southern British Columbia, Canada (including the Fraser River and eastern Vancouver Island), as far north as Johnstone Strait. Further, NMFS has identified a second pink salmon ESU which includes even-year pink salmon residing in the Snohomish River, WA. NMFS has determined that, at the present time, neither of these ESUs warrant listing as a threatened or endangered species.

ADDRESSES: Environmental and Technical Services Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Environmental and Technical Services Division, 503/231-2005 or Marta Nammack, Protected Species Management Division, 301/713-1401.

SUPPLEMENTARY INFORMATION:

Petition Background

On March 14, 1994, the Secretary of Commerce received a petition from Professional Resources Organization-Salmon (PRO-Salmon), to list as threatened or endangered nine naturally spawning populations of salmon indigenous to northwestern Washington and to designate critical habitat under the ESA (PRO-Salmon, 1994). Two of the petitioned populations included pink salmon (*Oncorhynchus gorbuscha*) stocks residing in the Elwha River and the lower Dungeness River on Washington's Olympic Peninsula. NMFS published a document on September 12, 1994 (59 FR 46808) that the petition presented substantial scientific information indicating that listings may be warranted. Concurrently, NMFS also announced its intention to initiate comprehensive status reviews of all species of Pacific salmon and anadromous trout in Washington, Oregon, Idaho, and California.

In announcing these comprehensive status reviews, NMFS requested comments from any party having relevant information concerning (1) whether any salmon stock qualifies as a ''species'' under the ESA and (2) whether any salmon stock is endangered or threatened based on NMFS' listing criteria. In addition, NMFS specifically solicited information on the petitioned stocks. NMFS also requested information on areas that may qualify as critical habitat for all stocks of pink, chum, sockeye, and chinook salmon, and sea-run cutthroat trout in Washington, Oregon, Idaho, and California. Status reviews for west coast coho salmon and steelhead are nearing completion.

Biological Background

The NMFS' Northwest Fisheries Science Center Biological Review Team (BRT) has reviewed the status of west coast pink salmon (Northwest Fisheries Science Center BRT, 1995), the prominent results of which are summarized below. A copy of the draft BRT report is available upon request (see **ADDRESSES**).

Pink salmon occur in oceanic and freshwater areas around the Pacific rim of Asia and North America. Spawning populations range from Puget Sound, WA to Norton Sound, AK in North America and from North Korea to the Anadyr Gulf, Russia in Asia (Heard, 1991; Mathisen, 1994). In Washington, pink salmon regularly spawn as far south as southern Puget Sound and on the Olympic Peninsula along the Strait of Juan de Fuca (Williams et al., 1975, Washington Department of Fisheries (WDF) et al., 1993), with about 70 percent of the spawning in north Puget Sound (WDF et al., 1993).

Across its natural range, pink salmon spawn in both large and small river systems in the late summer and fall. Spawning occurs in shallow pools and riffles exposed to moderately fast currents. Water temperatures during peak spawning activity range from about 5°–15° C. Pink salmon mature at the smallest average size of any species of Pacific salmon (1.0–2.5 kg) and show marked sexual dimorphism (Davidson, 1935; Pritchard, 1937; Beacham and Murray, 1985). Spawning populations throughout much of the range of pink salmon may be extremely large, often exceeding hundreds of thousands of adults (Heard, 1991; WDF et al., 1993).

Upon emerging from gravel, juvenile pink salmon migrate rapidly downstream, generally in schools. After a few weeks to a few months in estuaries and nearshore habitat, pink salmon migrate to sea where they reside for 12–16 months (Heard, 1991).

In addition to their small size, extreme sexual dimorphism, and short freshwater residence as juveniles, pink salmon differ from other salmonids in that they lack a variable age structure. Almost all pink salmon are 2 years of age at maturity (Gilbert, 1914; Bilton and Ricker, 1965; Turner and Bilton, 1968). The most significant result of this rigid age structure has been the development of two separate, and often distinctive, broodlines of pink salmon. Fish in the broodline that mature in even-numbered years are referred to as ''even-year'' pink salmon while those that mature in alternate, odd-numbered

years are referred to as ''odd-year'' pink salmon (Aspinwall, 1974; Johnson, 1979; McGregor, 1982; Beacham et al., 1985).

The geographic distribution of the two pink salmon broodlines is not random. At the southern extent of the pink salmon range in North America, odd-year pink salmon are most abundant (Atkinson et al., 1967; WDF et al., 1993). Pink salmon populations in British Columbia are dominated by odd-year fish, whereas populations from the northern Queen Charlotte Islands and western Alaska are dominated by even-year fish (Neave, 1952; Aro and Shepard, 1967; Ricker and Manzer, 1974). In Asia and North America, even-year pink salmon generally become more abundant as latitude increases (Heard, 1991). The reasons for this variation in broodline dominance are not well understood (Ricker, 1962; Heard, 1991).

Consideration as a ''Species'' Under the ESA

To qualify for listing as a threatened or endangered species, Elwha River and lower Dungeness River pink salmon must constitute ''species'' under the ESA. The ESA defines a ''species'' to include any ''distinct population segment of any species of vertebrate * * * which interbreeds when mature.'' On November 20, 1991, NMFS published a policy (56 FR 58612) describing how it will apply the ESA definition of ''species'' to Pacific salmonid species. This policy provides that a salmonid population will be considered distinct, and hence a species under the ESA, if it represents an 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 would be 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 ESA,'' which is available upon request (see **ADDRESSES**).

Reproductive Isolation

For this criterion, NMFS has considered available information regarding geographic and life-history factors that may isolate pink salmon, as well as genetic factors which indicate reproductive isolation. The petitioners considered reproductive isolation with respect to eleven groups of pink salmon which have previously been identified in the State of Washington (WDF et al., 1993). In addition to those identified by the petitioner, previously identified pink salmon stocks include Snohomish River even-year pink salmon (the only even-year population in Washington, Oregon, Idaho, or California) and odd-year pink salmon populations in the following Washington rivers: (1) Nooksack, (2) Skagit, (3) Stillaguamish, (4) Snohomish, (5) Puyallup, (6) Nisqually, (7) Hamma Hamma, (8) Duckabush, (9) Dosewallips, and (10) upper Dungeness.

With respect to the two criteria established by NMFS to define a ''species'' of Pacific salmon, the petitioner contended that the lower Dungeness and Elwha River populations of pink salmon were both reproductively isolated from other pink salmon populations. Reproductive isolation was inferred primarily on the basis of distance to nearest neighboring population. For lower Dungeness River pink salmon, this distance is 10 km and for Elwha River pink salmon, this distance is 25 km. Genetic data, in the form of allozyme variation, support a hypothesis for at least partial reproductive isolation of the lower Dungeness River population (Shaklee et al., 1991), but no genetic data exist for the Elwha River population (WDF et al., 1993).

Considerable evidence exists that indicates that even- and odd-year pink salmon are reproductively isolated. As discussed above under Biological Background, pink salmon exhibit a rigid age structure that results in two separate broodlines, even- and odd-year pink salmon. Throughout much of the range of this species, many rivers which support pink salmon populations produce both even- and odd-year broodlines which have no opportunity for interbreeding. As a result, this life history characteristic yields in each of these rivers two temporally isolated populations with almost no prospect of genetic exchange.

Numerous genetic studies also support the belief that even- and odd-year pink salmon populations are reproductively isolated. Studies conducted by Okazaki (1984) and Reisenbichler (1992) found large genetic differences between even- and odd-year pink salmon from the same area, with the magnitude of the differences roughly comparable to that found between coastal and inland steelhead. Strong allozyme frequency differences between even- and odd-year broodlines spawning at the same locality have been reported in Alaska (Aspinwall, 1974; Johnson, 1979; McGregor, 1982), Canada (Beacham et al., 1985) and Russia (Salmenkova et al., 1981; Altukohov et al., 1983; Kartavstev, 1991) for many polymorphic enzyme coding loci. In addition, Shaklee and Varnavskaya (1994) reported a large genetic difference between even- and odd-year Snohomish River pink salmon.

Ecological/Genetic Diversity

For this criterion, NMFS considered environmental, ecological, and life history information in its assessment of potential pink salmon ESUs. Further, historic accounts of artificial propagation were considered to determine (1) How indigenous even- and odd-year west coast pink salmon populations have been altered, and (2) the relationship of historic populations to the presently defined ESUs.

Little information was provided by the petitioner regarding NMFS' evolutionary significance criterion. The petitioner believed that spatial and temporal isolation of the lower Dungeness River population from the upper Dungeness River population, due to differences in run timing and spawning location, contribute to the distinctiveness of the lower river population. No quantitative data are available to support a hypothesis for the distinctiveness of the Elwha River population.

Environmental, Ecological, and Life-History Information

Along the west coast of North America, climate varies primarily with latitude. As such, coastal regions exhibit north to south gradients of increasing average rainfall and decreasing average temperature. Streamflows in this region tend to be lowest in August and September, whereas water temperatures in northwestern Washington are generally highest in July and August (Hydrosphere Data Products, Inc., 1993). Run timing and spawn timing are sensitive to these factors. As a result, streamflow patterns determine the temporal availability and suitability of spawning and incubation habitat for pink salmon.

Pink salmon populations can vary considerably in run timing (Sheridan, 1962) and spawn timing within a single river system. This type of life-history variability can have consequences for a populations' fitness (Taylor, 1980; Mortensen et al., 1991) and therefore, is an important consideration when

attempting to identify distinct population units (Gharett and Smoker, 1993).

In its analysis of run timing, NMFS found the time period of peak spawning for odd-year pink salmon populations to be highly variable among river systems in northwestern Washington. Pink salmon populations in the Strait of Juan de Fuca exhibit the earliest average date of peak spawning, while peak spawning of Nisqually River populations typically occurs an average of 1 month later. Timing of peak spawning of even-year pink salmon in the Snohomish river is about 3 to 4 weeks earlier than that of odd-year fish, even though these two groups use much of the same habitat.

In addition to differences in run timing, considerable variation in body size and shape is apparent among pink salmon populations. Available data indicate significant variation in the length of odd-year pink salmon among various drainages in Washington. In general, the smallest fish appear in cold, turbid rivers in Puget Sound (Nooksack and Nisqually Rivers), and along the Strait of Juan de Fuca (lower and upper Dungeness River), while the largest fish tend to exist in Hood Canal. Limited data regarding Snohomish River even-year pink salmon suggest that this population contains the smallest pink salmon observed in Washington.

Comparisons of pink salmon length data among British Columbia and Washington indicate that, with the exception of Snohomish and Skagit River populations, odd-year pink salmon populations in Washington appear to be smaller than the average for odd-year British Columbia populations (Beacham and Murray 1985). However, this comparison is complicated by the fact that the Washington data were taken more recently than the British Columbia data. Even-year Snohomish River adult pink salmon are similar in size to pink salmon in even-year populations from the central mainland and northern Vancouver Island, but tend to be smaller than the even-year British Columbia average. Again, however, the data may not be strictly comparable, because they were taken in different years.

Some evidence exists for recent declines in body length of odd-year pink salmon in Washington. This aspect raises concern regarding the ability of natural populations of pink salmon to recover, since, in general, decreases in body size equate to decreased fecundity and decreased juvenile production (but see Ricker et al., 1978; Ricker, 1989). NMFS was unable to review any new data on body size in odd-year British Columbia pink salmon to determine whether size has declined in these stocks (Ricker et al., 1978; Ricker, 1989). However, the decline in body length of odd-year Washington pink salmon is qualitatively similar to a decline in length observed in pink salmon returning to Auke Creek, AK, over the last 20 years. Further, data estimated from catches of southeastern Alaska pink salmon suggest similarly declining body length trends over an even longer period (Marshall and Quinn, 1988). Therefore, NMFS believes that this factor should be closely monitored to ensure that natural populations remain viable in the future.

Homing and straying are prominent features of Pacific salmon biology that can have significant effects on population structure. Consequently, these issues are relevant to ESU determinations for these species. Pink salmon have a widespread reputation for straying at higher rates than other species of Pacific salmon (Horrall, 1981). If true, the result may be a less conspicuous population structure and, potentially, reduced opportunity for local adaptations to be maintained. Few technically sound studies have been conducted to estimate straying rates of Pacific salmon and provide empirical evidence supporting the hypothesis that pink salmon stray at relatively higher rates than other species of *Oncorhynchus* is mixed (Quinn, 1993; Altukhov and Salmenkova, 1994). However, the rapid colonization of systems newly available to pink salmon indicates that this species has an unusual ability to expand into suitable habitat when conditions are favorable (Merrell, 1962; Kwain and Laurie, 1981; Heard, 1991).

It is difficult to say with any degree of certainty that pink salmon stray more frequently relative to other species of Pacific salmon. It is apparent that straying in pink salmon may be highly dependent on spawning location and on conditions at time of spawning. The consequences of straying on pink salmon populations are not clear, but such consequences may contribute to less conspicuous population structure and reduced local adaptations.

Artificial Propagation

It is commonly believed that even-year pink salmon were historically either absent from Washington or were at an abundance too low to sustain harvest (Rounsefell, 1938; Ellis and Noble, 1959). Consequently, WDF made several attempts earlier in this century to establish even-year pink salmon runs in northwestern Washington (WDF, 1916–1964; Neave, 1965; Roppel, 1982). More than 82 million pink salmon eggs were transported from Alaska to various locations in Washington in even-numbered years between 1910 and 1932. In addition, more than one million odd-year Alaskan pink salmon eggs were brought into Washington from southeastern Alaska in 1929. An estimated 85 million juveniles released between 1911 and 1933 produced no recorded returns of even-year pink salmon adults to Washington rivers, including the Snohomish River (Ellis and Noble, 1959; Neave, 1965). Attempts to establish even-year pink salmon in Washington were renewed between 1944 and 1956 with the transport of nearly 4 million eggs from the Skeena River drainage in British Columbia, Canada. Of the 1.3 million fry released, at least several hundred are believed to have returned as adults. However, no evidence exists that returns were sustained beyond one or two generations (Ellis and Noble, 1959; Neave, 1965).

Even-year pink salmon in Washington are known only to occur in the Snohomish River (WDF et al., 1993). The origin of this population is uncertain; these fish may be endemic or may have resulted from one or more transplants of even-year fish from Alaska or Canada. Regardless of its origin, the Snohomish River even-year population has apparently been naturally self-sustaining for at least the last 18 generations (about 36 years).

In addition to stock transplants, relatively large numbers of pink salmon were produced in Washington hatcheries around Puget Sound from the early 1950's through the late 1980's. Transfers of fish among hatcheries and drainages were common during this period; however, very few pink salmon were transplanted to areas outside Puget Sound. Three hatcheries have dominated pink salmon production in Washington: Hood Canal Hatchery on Finch Creek in Hood Canal, Puyallup Hatchery on Voight Creek in south Puget Sound, and Dungeness Hatchery on the Dungeness River.

In recent years, only Hood Canal Hatchery has maintained an active pink salmon propagation program. Most hatchery production of pink salmon in Washington is composed of odd-year fish released from this facility. Originally, in 1953, broodstock for this hatchery was derived from adult pink salmon returning to the Dungeness and Dosewallips Rivers. Presently, this hatchery uses native broodstock, which are generally released into Finch Creek, the location of the hatchery. Over the past decade releases from Hood Canal hatchery have averaged about 1 million fry released every other year into Finch

Creek. Therefore, although artificial propagation of pink salmon in the past may have affected the population structure of odd-year pink salmon in Puget Sound, recent hatchery production has probably had little effect on this structure due in part to the use of native broodstocks.

ESU Determinations

Based on its evaluation of genetic, life-history, and ecological information pertaining to pink salmon, NMFS has determined that two ESUs exist for North American pink salmon in WA and southern British Columbia, Canada. These two ESUs include: (1) even-year pink salmon residing in the Snohomish River, Washington (and likely, even-year pink salmon populations in southern British Columbia); and (2) odd-year pink salmon occurring in Washington as far west as the Elwha River and in southern British Columbia, Canada (including the Fraser River and eastern Vancouver Island) as far north as Johnstone Strait. A summary of the information that led to these conclusions is presented below.

Even-Year Pink Salmon ESU

A single population of even-year pink salmon occurs in the United States south of Alaska—in the Snohomish River, WA. Genetically, this population is much more similar to even-year pink salmon from British Columbia and Alaska than it is to odd-year pink salmon from Washington. In addition, a similar pattern is found in phenotypic and life-history traits such as body size and run timing. This result is consistent with numerous studies that have found large genetic differences between even- and odd-year pink salmon from the same area (e.g., Aspinwall, 1974; Beacham et al., 1985; Kartavtsev 1991).

The Snohomish River even-year pink salmon population is geographically isolated by several hundred kilometers from other even-year pink salmon populations of appreciable size. However, life-history features of the Snohomish River even-year population are similar to those in other even-year populations from central British Columbia. For example, time of peak spawning of even-year pink salmon in the Snohomish River is comparable to that of even-year British Columbia pink salmon and 3–4 weeks earlier than that of odd-year pink salmon in the Snohomish River. Genetic analyses are highly dependent upon standardization between laboratories, but available data indicate that even-year Snohomish River pink salmon are among the most distinctive of any pink salmon sample from the United States or southern British Columbia.

At the present time, the Snohomish River even-year pink salmon population is relatively small, on the order of a few thousand adults per generation. In defining the term ''species'' as it applies to Pacific salmon, NMFS has previously stated that a population should not be considered an ESU if the historic size (or historic carrying capacity) is too small for it to be plausible to assume the population has remained isolated over an evolutionary important time period (Waples, 1991). The fact that small spawning populations are regularly observed may reflect the dynamic processes of extinction, straying, and recolonization (Waples, 1991). Therefore, the small size of the current Snohomish River even-year pink salmon population suggests that it may be part of a larger geographic unit on evolutionary time scales (hundreds or thousands of years). The odd-year Snohomish River pink salmon population, which has the same spawning habitat available, is 1–2 orders of magnitude larger; therefore, it is possible that the even-year population was once much larger in the past. If that were the case, long-term persistence of this population in isolation would be easier to explain, since larger, isolated populations are likely to be more resilient to extinction than a small population such as this one.

Odd-Year Pink Salmon ESU

Genetic information indicates that odd-year pink salmon from southern British Columbia and Washington are clearly in a different evolutionary lineage than nearby even-year populations and more northerly odd-year populations. Within the southern British Columbia-Washington pink salmon group, there is also evidence of geographic population genetic structure, with detectable differences among groups of populations from the Dungeness River, Hood Canal, Puget Sound, and Fraser River, and southern and central British Columbia, Canada. In some analyses, Nisqually and Nooksack River populations in Puget Sound, WA are genetic outliers not similar to each other. Even so, none of the genetic differences within the southern British Columbia-Washington pink salmon group is very large in absolute magnitude.

Based on currently available information, NMFS concludes that the northern boundary of the odd-year ESU corresponds to the Johnstone Strait region of British Columbia, Canada. The ESU does not include northern British Columbia, Alaskan, or Asian populations of pink salmon. In Washington, westernmost populations in this ESU are found in the Dungeness River, but the ESU presumably would also include the Elwha River population, if a remnant still exists (see Status of West Coast Pink Salmon ESUs). Some uncertainty exists whether populations in the Dungeness River (and possibly the Elwha River in Washington and southern Vancouver Island in British Columbia) belong in a separate ESU. Further, given the uncertainty associated with the presence of populations outside this range, NMFS believes that insufficient information presently exists to determine whether other populations of pink salmon on the Olympic Peninsula or locations further south should be included in this ESU.

Status of West Coast Pink Salmon ESUs

In considering whether these ESUs are threatened or endangered according to the ESA, NMFS evaluated both qualitative and quantitative information. Qualitative evaluations considered recent, published assessments by agencies or conservation groups of the status of pink salmon within the geographic area. Quantitative assessments were based on current and historical abundance information and time series data compiled from a variety of Federal, state, and tribal agency records.

Nehlsen et al. (1991) considered salmon stocks throughout Washington, Idaho, Oregon, and California and enumerated all stocks that they found to be extinct or at risk of extinction. Pink salmon stocks in the Klamath and Sacramento Rivers, located in California, were considered extinct. Three stocks were considered to be at high risk of extinction (Russian River, CA; Elwha River, WA; and Skokomish River, WA) and one at moderate risk of extinction (Dungeness River, WA). Pink salmon stocks that do not appear in their summary were either not considered to be at risk of extinction or there was insufficient information to classify them.

The WDF et al. (1993) categorized all salmon stocks in Washington on the basis of stock origin, production type, and status (healthy, depressed, critical, or unknown). Of the 15 pink salmon stocks identified by WDF et al. (1993), nine were classified as healthy, two as critical (lower Dungeness and Elwha Rivers), two as depressed (upper Dungeness and Dosewallips Rivers), and two as unknown (North and Middle Fork Nooksack, and South Fork Nooksack River). All runs were classified as wild production and all,

except those in the North and Middle Forks of the Nooksack River, were reported to be of native origin. In the planned 1995 revision of the Washington State Salmon and Steelhead Inventory, the WDF intends to recommend that Elwha River pink salmon be classified as extinct since no adult fish have been observed since 1989 despite extensive annual surveys (Northwest Fisheries Science Center BRT, 1995).

Based on available data, it is difficult to ascertain with any degree of certainty the extent of the ESU that contains the Snohomish River even-year pink salmon population. The small size of the current Snohomish River even-year population suggests that it may be part of a larger geographic unit over evolutionary time. The Snohomish River even-year population is geographically isolated by several hundred kilometers from other even-year populations of appreciable size; however, similar life history characteristics, such as time of peak spawning, are similar to that of even-year British Columbia pink salmon. Results of genetic data are heavily dependent on whether an adjustment is made for possible differences in methods for recording data. Further, it is not clear which analyses should be preferred, those with or without adjustment for possible bias.

Given the uncertainty associated with the extent of the even-year ESU, NMFS considered the status of this ESU under two scenarios: (1) The ESU is composed solely of the Snohomish River pink salmon population, and (2) the ESU contains populations of even-year pink salmon from British Columbia in addition to the Snohomish River population. Under both scenarios, NMFS was unable to demonstrate that this ESU is currently at risk of extinction or endangerment. Available information indicates that the Snohomish River pink salmon population is relatively small with, generally, an increasing trend in abundance in recent years. Further, even-year pink salmon populations in British Columbia are generally stable or increasing. Therefore, under both ESU scenarios, NMFS has concluded that even-year pink salmon do not presently warrant listing under the ESA.

Similar to the even-year ESU, uncertainty remains regarding the extent of the odd-year pink salmon ESU. Environmental and ecological characteristics generally show a strong north-south trend; however, NMFS was unable to identify any substantial differences that consistently differentiate Washington and British Columbia odd-year pink salmon populations. Although odd-year pink salmon show considerable variation in body size among populations in Washington, the range of variation does not exceed that found in British Columbia. Genetic information shows a clear distinction between nearby even-year pink salmon and more northerly odd-year populations. Within the southern British Columbia and Washington pink salmon group, evidence of geographic population structure exists; however, none of the genetic differences is very large in absolute magnitude. Even though genetic differences among odd-year pink salmon are relatively small, the consistent genetic differences among geographically isolated groups of populations suggest that there has been some degree of reproductive isolation among pink salmon populations in this region.

Most populations in the odd-year pink salmon ESU appear to be healthy, and overall abundance appears to be close to historic levels. The two most distinctive Puget Sound populations, the Nooksack and Nisqually River populations, both show non-significant trends in recent abundance. No other factors were identified by NMFS which would threaten the near-term survival of these populations. However, the two populations on the northern Olympic Peninsula (both of which occur in the Dungeness River and one of which, in the lower river, was petitioned for listing) appear to be at the greatest risk of extinction in this ESU. Nevertheless, because (1) most of the populations in this ESU are stable or increasing and (2) the two populations at greatest risk are not consistently differentiated from other populations in the ESU with regard to genetic or life history characters, NMFS concludes that the odd-year pink salmon ESU is not presently at risk of extinction or endangerment. Furthermore, NMFS concludes that the geographic boundaries of the even- and odd-year pink salmon ESUs should be regarded as provisional. As such, these geographic boundaries are subject to revision should substantial new information become available. The NMFS welcomes the submission of any new information that may help resolve uncertainties regarding the extent of these pink salmon ESUs.

Determination

After a thorough analysis of all available information, NMFS has determined that neither Elwha River nor lower Dungeness River pink salmon, as petitioned, constitute a ''species'' under the ESA. However, Elwha River and lower Dungeness River pink salmon are part of a larger ESU that includes all odd-year pink salmon stocks in Washington as far west as the Elwha River and in southern British Columbia, Canada (including the Fraser River and eastern Vancouver Island), as far north as Johnstone Strait. Further, NMFS has identified a second ESU for pink salmon which includes even-year pink salmon residing in the Snohomish River, WA. NMFS has determined that, at the present time, neither ESU warrants listing as a threatened or endangered species.

References

A list of references is available upon request (See **ADDRESSES**).

Dated: September 28, 1995.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–24698 Filed 9–29–95; 4:08 pm]

BILLING CODE 3510–22–F

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50 CFR Part 285

[I.D. 092895D]

Atlantic Tuna Fisheries; Bluefin Tuna Quota Reallocation

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

ACTION: Quota reallocation and opening of the General category fishery in the New York Bight area.

SUMMARY: NMFS announces a transfer of 10 metric tons (mt) of Atlantic Bluefin Tuna (ABT) from the longline-south Incidental subcategory to the General category and establishes a geographic set-aside for the New York Bight area. NMFS has determined that the fisheries landing ABT under the longline-south Incidental subcategory will not achieve the full 1995 allocation. NMFS has also determined that variations in the seasonal distribution and migration patterns of ABT have prevented fishery participants in the New York Bight area from harvesting a share of the General category quota. This action is being taken to extend the season for the General category, provide for fishing opportunities in the New York Bight area, and ensure additional collection of biological assessment and monitoring data.

EFFECTIVE DATES: The longline inseason transfer is effective September 29, 1995. The General category fishery is opened in the New York Bight area effective