

3501 *et seq.*) and assigned clearance number 1018-0070.

List of Subjects in 50 CFR part 18

Administrative practice and procedure, Imports, Indians, Marine mammals, Transportation.

For the reasons set forth in the preamble, part 18, subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 18—MARINE MAMMALS

1. The authority citation for 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Section 18.122 of Subpart J is proposed to be revised to read as follows:

§ 18.122 Effective dates.

Regulations in this subpart, originally effective for an 18-month period from December 16, 1993, through June 16, 1995, will continue in effect for an additional 42 month period through December 15, 1998, for oil and gas exploration, development, and production activities.

Dated: March 10, 1995.

George T. Frampton, Jr.

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95-6593 Filed 3-16-95; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12 Month Finding for a Petition to List the Anadromous Atlantic Salmon (*Salmo Salar*) Populations in the United States as Endangered or Threatened

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; and Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS),

collectively the Services, announce a 12-month finding on a petition to list the Atlantic salmon (*Salmo salar*) throughout its range in the United States as an endangered species pursuant to the Endangered Species Act of 1973 (Act). A Biological Review Team (Team), comprising staff from both NMFS and FWS, have compiled and analyzed available data, and prepared a "Status Review for Anadromous Atlantic Salmon in the United States." The Services have determined that available biological evidence indicates that the species described in the petition does not meet the definition of "species" under the Endangered Species Act. Consequently, the Services conclude that the petitioned action to list Atlantic salmon throughout its historic United States range is not warranted.

DATES: The finding made in this document was made on March 10, 1995.

ADDRESSES: Comments or questions concerning this petition finding should be sent to the Chief, Division of Endangered Species, FWS, 300 Westgate Center Drive, Hadley, Massachusetts 01035, or the Chief, Habitat and Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, Massachusetts 01930. The petition finding and supporting data are available for public inspection by appointment during normal business hours at the above addresses and at FWS, 1033 South Main Street, Old Town, Maine 04468 (207-827-5938).

FOR FURTHER INFORMATION CONTACT: Paul Nickerson, Chief, Division of Endangered Species, at the Hadley, Massachusetts address (413-253-8615) or Mary Colligan, Marine Habitat Specialist, at the Gloucester, Massachusetts address (508-281-9116).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act requires that for any petition to revise the List of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information indicating that the petitioned action may be warranted, the FWS or the NMFS, as appropriate, must undertake a review of the species in question and make a finding within 12 months of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be "warranted but precluded" should be treated as though

resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months.

In October and November, 1993, the Services received a petition from RESTORE: the North Woods, Biodiversity Legal Foundation and Jeffrey Elliot to list naturally spawning anadromous Atlantic salmon (*Salmo salar*) throughout its known historic range in the conterminous United States, and to designate critical habitat. The petitioners presented current and historical information on Atlantic salmon populations, identified possible threats including commercial and sport fishing, pollution, barriers, land use practices, genetic disruption and others, and cited numerous scientific articles to support the petition.

The Services published a notice of finding on January 20, 1994 (59 FR 3067-3068), stating that the petition presented substantial information indicating that the requested action may be warranted. The Services also announced their intention to conduct a status review and solicited information from interested parties. To formalize the cooperative approach between NMFS and FWS in response to this petition, a Memorandum of Agreement was signed on March 14, 1994, by the regional directors of the respective agencies. A Biological Review Team (Team), comprising staff from the Services, has compiled and analyzed available data. The Team prepared a report entitled "Status Review for Anadromous Atlantic Salmon in the United States, January 1995" which provides detailed information, discussion and references. This report is summarized below and is available upon request (see **ADDRESSES**).

Life History

Anadromous Atlantic salmon have a relatively complex life history that extends from spawning and juvenile rearing in freshwater rivers to extensive feeding migration in the high seas. As a result, Atlantic salmon have several distinct phases in their life history that are identified by specific behavioral and physiological changes. Adult Atlantic salmon ascend the rivers of New England beginning in spring, a migration that peaks in June and continues into fall. Spawning occurs in late October through November. Good spawning habitat has a gravel substrate and adequate water circulation to keep eggs well oxygenated. Female anadromous Atlantic salmon produce between 1,500 and 1,800 eggs per kilogram (2.2 pounds) of body weight; on average each female Maine Atlantic salmon produces 7,200 eggs. Eggs hatch in late March or April and the resulting

alevin remain in the redd for about 6 weeks and are nourished by their yolk sac. When alevin emerge from the gravel about mid-May and begin feeding, they are referred to as fry. Fry become parr as vertical bars become visible on the sides of their bodies. In spring, when the parr are 2 or 3 years of age and 12.5 centimeters (cm) to 15 cm (5 to 6 inches (in.)) long, they undergo smoltification, a process where morphological and physiological changes prepare the smolt for the transition from fresh to salt water. Most smolts in New England migrate to sea in May and begin their ocean feeding migration.

The marine life history of Atlantic salmon of U.S. origin is not as well understood as the freshwater phase. Scientists have discovered correlations between natural mortality in the marine environment and abiotic factors, particularly sea surface temperature. Atlantic salmon of U.S. origin are highly migratory, undertaking long marine migrations from the mouth of U.S. rivers to the northwest Atlantic Ocean where they are distributed seasonally over much of the region. Upon entry into the nearshore waters of Canada, the U.S. post-smolts become part of a mixture of stocks of Atlantic salmon from various North American streams. Data from commercial harvest indicate that post-smolts overwinter in the southern Labrador Sea and in the Bay of Fundy. Direct sampling during the winter months is needed to better understand post-smolt Atlantic salmon distribution in the North Atlantic. Most Atlantic salmon of U.S. origin spend two winters in the ocean before returning to fresh water for spawning. Those that return after only 1 year at sea are called grilse.

Consideration as a "Species" Under the Act

The Act defines species as "any species of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature." This definition allows for the recognition of distinct population segments (DPSs) at levels below taxonomically recognized species or subspecies. Guidance on defining a DPS of a species under the Act has been provided by NMFS' "Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon" (56 FR 58612, November 20, 1991). This Policy states that a Pacific salmon population will be considered distinct, and therefore a species under the Act, if it represents an evolutionarily significant unit (ESU) of the biological species. Because the structure of Atlantic salmon populations is similar to that of Pacific salmonids,

the ESU approach currently used for the Pacific salmonids provides a practical framework for delineating DPSs of Atlantic salmon under the Act. Accordingly, the Team used the ESU approach to define DPSs of Atlantic salmon. To qualify as a DPS, a population (or group of populations) of indigenous Atlantic salmon must be reproductively isolated from conspecific populations and must be evolutionarily significant (i.e. contribute substantially to the ecological/genetic diversity of the species).

Available scientific information indicates that naturally reproducing populations of Atlantic salmon in U.S. rivers are substantially reproductively isolated from those in Canada. Within the United States, Atlantic salmon populations have shown some evidence of straying but recolonization from adjacent watersheds is minimal. Gene flow between wild populations or stock transfers were determined not to have been sufficient to have eliminated all historic differences. As a group, these seven populations meet the criterion of reproductive isolation.

The second criterion used was evolutionary significance, or the substantial ecological and genetic importance of a population(s) to the species as a whole. In salmonids, adaptations to local ecosystems are important to the survival of populations and the survival of the species throughout its range. Examination of U.S. populations of Atlantic salmon provides evidence of their distinctness from stocks in Canada and northern Europe.

The Team categorized U.S. Atlantic salmon populations into three groupings: Extirpated, DPS and candidate species. A critical factor in determining the status of these populations was the historic persistence of a substantial component of natural reproduction. While it is unlikely that U.S. Atlantic salmon populations exist in a genetically pure native form, their continued presence in indigenous habitat suggests that important local adaptations still exist. The documented absence of wild Atlantic salmon from natal habitat for at least two generations (12 years) suggests the total loss of a native population under even the most conservative approach. Atlantic salmon populations in rivers south of the Kennebec River, Maine, were extirpated by the mid-1800's.

The Team determined that the Atlantic salmon populations in the Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias and Dennys Rivers are reproductively isolated and, as a group, are of

evolutionary significance. Therefore, the group meets the criteria for consideration as a "species" under the Act. The persistence of Atlantic salmon runs, and their link to native populations in the Kennebec River, Penobscot River, Tunk Stream, and St. Croix River are not well understood. Further study is warranted to determine whether Atlantic salmon in these rivers meet the criteria for consideration as "species" under the Act.

Distribution and Abundance

The original range of Atlantic salmon in the United States was from the Housatonic River in Connecticut north to U.S. tributaries of the St. Johns River in New Brunswick, Canada. The historic Atlantic salmon run in the United States has been estimated to have approached 500,000 fish.

The species began to disappear from U.S. rivers 150 years ago and currently only remnant populations occur in a limited number of rivers in Maine. Construction of hundreds of dams blocked salmon migration and reduced spawning habitat to a fraction of that available historically. Water pollution and overexploitation further reduced the abundance of Atlantic salmon. Indigenous Atlantic salmon in rivers south of the Kennebec River were extirpated by the mid-1800's. In addition, some populations north of the Kennebec River were also extirpated; most of these were in small rivers with less than 1 hectare (2.5 acres) of available nursery habitat. Beginning in the mid-1800's and continuing to the present time, numerous restoration efforts were undertaken. The Connecticut and Merrimack Rivers provided nearly 40 percent of historic U.S. Atlantic salmon habitat. These rivers are currently the focus of restoration efforts using nonindigenous stocks, and extensive efforts are being undertaken to gain access to historic habitat.

The North American Salmon Working Group's NASWG method for estimating the escapement goal for adequate egg deposition for each river was used. Thus, an escapement goal was determined for each river and the return calculated as a percentage of the escapement goal. Throughout the past 24 years, the Dennys and Narraguagus Rivers have had the best returns relative to available habitat, averaging 20 percent of escapement goal. The Pleasant, Sheepscot, and Machias Rivers have had returns that averaged between 10 and 12 percent of the escapement goal. However, recent downward trends in abundance have put most rivers at less than 10 percent of their respective

escapement goals. Only the Narraguagus River has exceeded 10 percent in the past 7 years.

Determination

Section 4(b)(1)(a) of the Act requires that determinations of whether any species is threatened or endangered be based solely on the best scientific and commercial information available after conducting a status review of the species. The Services have evaluated the status of U.S. Atlantic salmon and determined that available biological evidence indicates that listing the Atlantic salmon as endangered throughout its historic range in the contiguous United States is not warranted. However, the Services have determined that sufficient information

is available to support appropriate listing actions for the DPS that consists of populations in the Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias and Dennys Rivers. This DPS is designated as a Category 1 candidate by FWS, and a candidate species by NMFS. In addition, the Services have found that the status of salmon in the Kennebec River, Tunk Stream, Penobscot River and the St. Croix River is uncertain and warrants further study. Therefore, the Atlantic salmon in these rivers are to be designated category 2 candidates by FWS and candidate species by NMFS. Work on a proposed rule to initiate the appropriate listing actions under the Act is underway and the proposed rule will be published promptly.

Author: The primary author of this document is Susan Lawrence of FWS (see ADDRESSES). Editorial comments were provided by Michael Amaral, FWS, 22 Bridge Street, Concord, New Hampshire 03301, and Joseph McKeon, FWS, Federal Building, Room 124, Laconia, New Hampshire 03246.

Authority: The authority citation for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: March 10, 1995.

Rolland A. Schmitt,

Assistant Administrator for Fisheries, NMFS.

Dated: March 10, 1995.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 95-6611 Filed 3-16-95; 8:45 am]

BILLING CODE 4310-55-P