

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 227**

[Docket No. 950412102-5102-01; I.D. 072594B]

Endangered and Threatened Species; Status of Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon

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

ACTION: Final rule.

SUMMARY: This Final Rule corrects an error in an emergency rule expiring on April 17, 1995. The emergency rule was published with an error in the amendatory language resulting in the accidental removal of all protective regulations for the species upon expiration of the emergency rule. This final rule will reinstate protection for Snake River spring/summer chinook and Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) by returning the inadvertently omitted rule language providing for their conservation as threatened species.

EFFECTIVE DATE: 12:01 a.m. (local time) on April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Environmental and Technical Services Division, NMFS (503)-230-5430 or Gregory Miller, NMFS, (301)-713-1401.

SUPPLEMENTARY INFORMATION: NMFS published an emergency rule (59 FR 42529, August 18, 1994) pursuant to section 4(b)(7) of the ESA, 16 U.S.C. 1531 *et seq.*, that reclassified Snake River spring/summer chinook and Snake River fall chinook as endangered. The emergency rule is effective for 240 days from the date of publication in the **Federal Register**. However, the emergency rule was published with an

improper instruction. In reclassifying the species as "endangered" for 240 days, NMFS intended to temporarily "suspend" the regulation identifying the species as threatened during the period. However, NMFS inadvertently included amendatory language instructing that this regulation be "removed," which provided permanent removal of the regulation from the CFR, rather than temporary suspension during the effective period of the emergency rule as intended. NMFS is implementing this final rule to remain consistent with its original intent and to ensure that, upon expiration of the 240-day effectiveness period of the emergency rule, the regulation identifying these salmon stocks as threatened will remain in place.

Classification

Pursuant to sections 553(b) and 553(d) of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, the Assistant Administrator finds that there is good cause to waive the requirements for both prior notice of an opportunity for public comment, and the delayed effective date, respectively, because this rule is a technical amendment correcting a clerical error made in a prior rule. This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine Mammals, Transportation.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.4, paragraphs (f) and (g) are added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(f) Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of spring/summer chinook salmon in the mainstream Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, and Salmon River.

(g) Snake River fall chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of fall chinook in the mainstream Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River.

3. Subpart C, Threatened Marine and Anadromous Fish, consisting of § 227.21 is added to read as follows:

Subpart C—Threatened Marine and Anadromous Fish

§ 227.21 Threatened salmon.

(a) **Prohibitions.** The prohibitions of section 9 of the Act (16 U.S.C. 1539) relating to endangered species apply to threatened species of salmon listed in § 227.4(f) and (g), except as provided in paragraph (b) of this section.

(b) **Exceptions.** The exceptions of section 10 of the Act (16 U.S.C. 1538) and other exceptions under the Act relating to endangered species, including regulations implementing such exceptions, also apply to the threatened species of salmon listed in § 227.4(f) and (g). This section supersedes other restrictions on the applicability of parts 217 through 222 of this chapter, including, but not limited to, the restrictions specified in §§ 217.2, 222.2(a) and 222.22(a) of this chapter with respect to the species identified in paragraph (a) of this section.

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