

SUPPLEMENTARY INFORMATION:

Background

Bog turtles inhabit shallow, spring-fed fens, sphagnum bogs, swamps, marshy meadows and pastures characterized by soft, muddy bottoms; clear, cool, slow-flowing water, often forming a network of rivulets; high humidity; and an open canopy. Unless set back by fire, beaver activity, grazing, or periodic wet years, open-canopy wetlands are slowly invaded by woody vegetation and undergo a transition into closed-canopy, wooded swampland, thus becoming unsuitable for habitation by bog turtles. The northern populations extends from southern New York and western Massachusetts southward through western Connecticut, New Jersey and eastern Pennsylvania, to northern Delaware and Maryland. Disjunct populations previously occurred in western Pennsylvania and in the Lake George and Finger Lakes regions of New York. The western Pennsylvania and Lake George populations have been extirpated and only a remnant population exists at two remaining sites in the Finger Lakes region. The southern population occurs in southwestern Virginia southward through western North Carolina, eastern Tennessee, northwestern South Carolina and northern Georgia.

The northern population of the bog turtle has declined by approximately 50 percent. Illegal collection and habitat alteration/destruction constitute the primary threats to this species. The Service does not currently consider the southern population of bog turtles to be biologically threatened or endangered; however, it would be nearly impossible to prosecute illegal 'take' cases if the southern population was not also listed. The proposed special rule would exempt incidental take of bog turtles in the southern population from the prohibitions of the Act. That is, take that results from, but is not the purpose of, carrying out an otherwise lawful activity would not be prohibited for the southern population.

On January 29, 1997, the Service published a proposal in the **Federal Register** (62 FR 4229) to list the northern population of the bog turtle as threatened and the southern population as threatened due to similarity of appearance under the Act as amended. Section 4(b)(5)(E) of the Act requires that a public hearing be held if requested within 45 days of the proposal's publication in the **Federal Register**. A public hearing request was received within the allotted time period from Mr. Gary L. Hoffman, Chief Engineer for the Commonwealth of

Pennsylvania Department of Transportation, Harrisburg, Pennsylvania. The Service has scheduled a hearing on April 21, 1997, from 7:00 to 9:00 p.m. (Eastern Standard Time), at the auditorium of the Oley High School, 17 Jefferson Street, Oley, Pennsylvania. Those parties wishing to make a statement for the record are encouraged to provide a copy of their statement to the Service at the start of the hearing. Oral statements may be limited in length if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Comments from all interested parties must be received by April 29, 1997.

Author: The primary author of this notice is Mr. Michael L. McCarthy, Pennsylvania Field Office, U.S. Fish and Wildlife Service, 315 South Allen Street, Suite #322, State College, Pennsylvania 16801.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531-1544).

Dated: March 27, 1997.

Cathy Short,

Deputy Regional Director, Region 5.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration**50 CFR Part 660**

[Docket No. 970318059-7059-01; I.D. 022197B]

RIN 0648-A182

Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Amendment 12

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

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement portions of Amendment 12 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (Salmon FMP). Amendment 12 to the Salmon FMP would include, as management objectives for the Salmon FMP, the NMFS jeopardy standards or the objectives of NMFS

recovery plans for salmon species that are listed as threatened or endangered under the Endangered Species Act (ESA) and would eliminate from the Code of Federal Regulations a table that summarizes management goals. This proposed rule would implement that change. The intended effect of this rule is to ensure that ESA listed salmon are given proper consideration in formulating management measures under the Salmon FMP.

DATES: Comments on the proposed rule must be received on or before May 19, 1997.

ADDRESSES: Comments on the proposed rule for Amendment 12 should be sent to Mr. William Stelle, Administrator, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or to Mr. William Hogarth, Acting Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

Copies of Amendment 12 (combined with Amendment 10 to the Fishery Management Plan for the Pacific Coast Groundfish Fishery (Groundfish FMP)), the Environmental Assessment (EA)/Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) are available from Larry Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, Rodney McInnis at 310-980-4040, or the Pacific Fishery Management Council at 503-326-6352.

SUPPLEMENTARY INFORMATION: NMFS is proposing this rule based on a recommendation of the Pacific Fishery Management Council (Council), under the authority of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The background and rationale for the Council's recommendations are summarized below. More detail appears in the EA/RIR/IRFA that the Council prepared for this action (see **ADDRESSES**).

At its October 1996 meeting, the Council adopted a package that consists of Amendment 12 to the Salmon FMP and Amendment 10 to the Groundfish FMP. Amendment 12 would allow adoption of rules to permit retention of, but not sale of, salmon bycatch in Pacific Coast groundfish trawl fisheries under a monitoring program that meets certain guidelines; specify ESA standards as management objectives for salmon species listed under the ESA;

and update the Salmon FMP, without changing the FMP management objectives. Amendment 10 would authorize modification of the regulations governing the Pacific Coast groundfish fishery to allow retention of salmon bycatch as authorized under Amendment 12.

A Notice of Availability for Amendments 12 and 10, inviting comments from the public, was published in the **Federal Register** on February 27, 1997 (62 FR 8921). Public comments on the proposed rule must be received by the end of the comment period on the amendments, April 28, 1997, to be considered in the approval/disapproval decision on the amendments.

Management Objectives for Listed Salmon Species

Amendment 12 to the Salmon FMP would specify that the Council will manage ocean salmon fisheries consistent with NMFS jeopardy standards or NMFS recovery plans for species listed under the ESA. This portion of Amendment 12 is needed to bring the Salmon FMP into compliance with the March 1996 Biological Opinion issued under section 7 of the ESA, regarding the impacts of the Pacific Coast salmon fishery on salmon stocks listed under the ESA. The Biological Opinion's first reasonable and prudent alternative (RPA) requires the Council to adopt by October 1996, and NMFS to implement by May of 1997, an amendment that includes ESA management objectives in the FMP. This portion of Amendment 12 is being implemented through this proposed rule.

Update of the Salmon FMP

The Salmon FMP has not had a comprehensive update since 1984. The Council wishes to provide a comprehensive Salmon FMP that incorporates into a single document all of the amendments that have been made to the Salmon FMP since 1984. The updated Salmon FMP has been designed to be the operative salmon FMP, rather than an amendment to any existing document. It incorporates or references all the parts required for a complete Salmon FMP but contains only the operative language necessary to understand and implement the Council's salmon management plan. If approved, this updated, comprehensive Salmon FMP would be much easier for the public to review and understand for any future amendment considerations. This comprehensive Salmon FMP update also includes a summary of specific management goals for stocks in

the salmon management unit, which allows NMFS to make minor modifications to the salmon regulations. The table of management goals that currently appears in the salmon regulations at § 660.410 would be deleted from the regulations because it already exists in the Salmon FMP. In accordance with the current Salmon FMP framework procedure, future updates to stock management goals may be made without amending the Salmon FMP.

Future Proposed Regulations

Salmon Bycatch Retention

The salmon bycatch retention provisions of Amendments 10 and 12 are not being implemented in this rule. These provisions would authorize regulations to permit groundfish trawl vessels to retain, but not sell, their bycatch of Pacific salmon under a monitoring program that meets certain guidelines. The Biological Opinion under section 7 of the ESA regarding the groundfish fishery requires monitoring of the groundfish fisheries for salmon bycatch rates, but the Salmon and Groundfish FMPs and associated regulations limit flexibility in how this is done, because they do not allow for retention of trawl-caught salmon. The monitoring program has operated under an EFP for the past few years, and this plan amendment allows the Council to adopt regulations to implement appropriate monitoring. The Council has not yet developed and proposed such a program, so no implementing regulations are currently being proposed in connection with this portion of the amendments. NMFS expects that the Council will submit a proposal to implement a bycatch monitoring program for the 1998 fishery.

Classification

At this time, NMFS has not determined that the FMP Amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic

impact on a substantial number of small entities as follows:

The proposed rule would implement changes to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (Salmon FMP) to specify Endangered Species Act (ESA) standards as management objectives for salmon species listed under the ESA. It would also eliminate a table from the regulations that would be made redundant by Amendment 12.

This proposed rule to specify ESA standards as salmon management objectives would bring the Salmon FMP into compliance with the March 8, 1996, Biological Opinion on the impacts of ocean fisheries for Pacific salmon on stocks listed under the ESA. It formalizes in the FMP what was already required by the ESA. The elimination of the table is a housekeeping measure that has no substantive impact on the regulated public or other government agencies.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 27, 1997.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.410, the section heading and paragraph (a) are revised, the table "Summary of Specific Management Goals for Stocks in the Salmon Management Unit" is removed, and a new paragraph (c) is added to read as follows:

§ 660.410 Escapement and management goals.

(a) The escapement and management goals are summarized in Table 6-1 of the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California.

* * * * *

(c) The annual management measures will be consistent with NMFS jeopardy standards or NMFS recovery plans for species listed under the Endangered Species Act.

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