

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**[Docket No. FWS-HQ-ES-2014-0037;
4500030113]

RIN 1018-BA55

Endangered and Threatened Wildlife and Plants; Adding 10 Species to the List of Endangered and Threatened Wildlife**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in accordance with the Endangered Species Act of 1973, as amended (Act), are amending the List of Endangered and Threatened Wildlife (List) by adding: five species of foreign sturgeon (Adriatic sturgeon (*Acipenser naccarii*), Chinese sturgeon (*A. sinensis*), European sturgeon (*A. sturio*), Kaluga sturgeon (*Huso dauricus*), and Sakhalin sturgeon (*A. mikadoi*)); four distinct population segments (DPSs) of scalloped hammerhead shark (*Sphyrna lewini*) (Central and Southwest Atlantic (Central & SW Atlantic) DPS, Eastern Atlantic DPS, Indo-West Pacific DPS, and Eastern Pacific DPS); and a nonessential experimental population of Upper Columbia River spring-run Chinook salmon (*Oncorhynchus tshawytscha*). These amendments are based on previously published determinations by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species.

DATES: This rule is effective September 4, 2014. Applicability dates: The five sturgeon listings are effective as of July 2, 2014; the scalloped hammerhead shark DPS listings are effective as of September 2, 2014; and the designation of a nonessential experimental population of Upper Columbia River spring-run Chinook salmon is effective as of August 11, 2014.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Chief, Branch of Endangered Species Listing, U.S. Fish and Wildlife Service, MS-ES, 5275 Leesburg Pike, Falls Church, VA 22041-3803; 703-358-2171.

SUPPLEMENTARY INFORMATION:**Background**

In accordance with the Act (16 U.S.C. 1531 et seq.) and Reorganization Plan

No. 4 of 1970 (35 FR 15627; October 6, 1970), NMFS has jurisdiction over the marine and anadromous taxa identified in this rule. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as an endangered or threatened species. NMFS makes these determinations via its rulemaking process. We, the Service, are then responsible for publishing final rules to amend the List in the Code of Federal Regulations (CFR) at 50 CFR 17.11(h).

On October 31, 2013, NMFS published a proposed rule (78 FR 65249) to list the Adriatic sturgeon, Chinese sturgeon, European sturgeon, Kaluga sturgeon, and Sakhalin sturgeon as endangered species. NMFS solicited public comments on the proposed rule through December 30, 2013. On June 2, 2014, NMFS published a final rule (79 FR 31222) to list the five species of sturgeon as endangered species. The listing is effective as of July 2, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

On April 5, 2013, NMFS published a proposed rule (78 FR 20718) to list four DPSs of scalloped hammerhead shark under the Act. NMFS proposed to list the Central & SW Atlantic DPS and Indo-West Pacific DPS as threatened species, and the Eastern Atlantic DPS and Eastern Pacific DPS as endangered species. NMFS solicited public comments on the proposed rule through June 4, 2013. On July 3, 2014, NMFS published a final rule (79 FR 38214) to list the Central & SW Atlantic DPS and Indo-West Pacific DPS of scalloped hammerhead shark as threatened species, and the Eastern Atlantic DPS and Eastern Pacific DPS of scalloped hammerhead shark as endangered species. The listing is effective as of September 2, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

On October 24, 2013, NMFS published a proposed rule (78 FR 63439) to designate and authorize the release of a nonessential experimental population (NEP) of Upper Columbia River spring-run Chinook salmon under section 10(j) of the Act in the Okanogan River subbasin, and to establish a limited set of take prohibitions for that population. NMFS solicited public comments on the proposed rule through December 9, 2013. On July 11, 2014,

NMFS published a final rule (79 FR 40004) to designate and authorize the release of this NEP of Upper Columbia River spring-run Chinook salmon in the Okanogan River subbasin, and established a limited set of take prohibitions for this NEP. The listing is effective as of August 11, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

Administrative Procedure Act

Because NMFS provided a public comment period on the proposed rules for these taxa, and because this action of the Service to amend the List in accordance with the determination by NMFS is nondiscretionary, the Service finds good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. We also find good cause under 5 U.S.C. 553(d)(3) to make this rule effective immediately. The NMFS rules extended protection under the Act to these species and listed them in 50 CFR parts 223 and 224; this rule is an administrative action to add the species to the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). The public would not be served by delaying the effective date of this rulemaking action.

Required Determinations*National Environmental Policy Act*

We have determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We outlined our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

- 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries to the List of Endangered and Threatened Wildlife under FISHES as follows:

■ a. Immediately following the entry for “Salmon, Chinook (Upper Columbia River spring-run ESU)”, add an entry for “Salmon, Chinook (Upper Columbia River spring-run ESU—XN)”; and

■ b. In alphabetical order, add entries for “Shark, scalloped hammerhead (Central & SW Atlantic DPS)”; “Shark, scalloped hammerhead (Eastern Atlantic DPS)”; “Shark, scalloped hammerhead (Eastern Pacific DPS)”; “Shark, scalloped hammerhead (Indo-West Pacific DPS)”; “Sturgeon, Adriatic”; “Sturgeon, Chinese”; “Sturgeon,

European”; “Sturgeon, Kaluga”; and “Sturgeon, Sakhalin”.

The additions read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * * *							
FISHES							
* * * * *							
Salmon, Chinook (Upper Columbia River spring-run ESU—XN).	<i>Oncorhynchus tshawytscha.</i>	North America from Ventura River in California to Point Hope, Alaska, and the Mackenzie River area in Canada; north-east Asia from Hokkaido, Japan, to the Anadyr River, Russia.	Upper Columbia River spring-run ESU—XN—see 50 CFR 223.102.	XN	845	NA	223.301
* * * * *							
Shark, scalloped hammerhead (Central & SW Atlantic DPS).	<i>Sphyrna lewini</i>	Central and South-west Atlantic Ocean, including Caribbean Sea.	Central & SW Atlantic DPS—see 50 CFR 223.102.	T	845	NA	NA
Shark, scalloped hammerhead (Eastern Atlantic DPS).	<i>Sphyrna lewini</i>	Eastern Atlantic Ocean, including Mediterranean Sea.	Eastern Atlantic DPS—see 50 CFR 224.101.	E	845	NA	NA
Shark, scalloped hammerhead (Eastern Pacific DPS).	<i>Sphyrna lewini</i>	Eastern Pacific Ocean.	Eastern Pacific DPS—see 50 CFR 224.101.	E	845	NA	NA
Shark, scalloped hammerhead (Indo-West Pacific DPS).	<i>Sphyrna lewini</i>	Indian Ocean and Western Pacific Ocean.	Indo-West Pacific DPS—see 50 CFR 223.102.	T	845	NA	NA
* * * * *							
Sturgeon, Adriatic	<i>Acipenser naccarii</i> ..	Adriatic Sea	Entire	E	845	NA	NA
* * * * *							
Sturgeon, Chinese ...	<i>Acipenser sinensis</i>	Northwest Pacific Ocean in China, Japan, South Korea, and North Korea.	Entire	E	845	NA	NA
* * * * *							
Sturgeon, European	<i>Acipenser sturio</i>	North Sea, the English Channel, and most European coasts of the Atlantic Ocean, the Mediterranean Sea, and the Black Sea.	Entire	E	845	NA	NA
* * * * *							
Sturgeon, Kaluga	<i>Huso dauricus</i>	Amur River basin, Sea of Okhotsk and the Sea of Japan.	Entire	E	845	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* Sturgeon, Sakhalin ..	* <i>Acipenser mikadoi</i> ..	* Northwest Pacific Ocean in Japan and Russia.	* Entire	* E	* 845	* NA	* NA
*	*	*	*	*	*	*	*

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Dated: August 25, 2014.

Stephen Guertin,
Acting Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140128077-4691-02]

RIN 0648-BD93

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States

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

ACTION: Final rule.

SUMMARY: This final rule changes on-reel trawl gear stowage requirements when fishing vessels are transiting closed areas or fishing in areas with mesh size restrictions. Specifically, this action allows a vessel to use a highly visible orange or yellow mesh material as an alternative to the current requirement to use a tarp or similar canvas material. In addition, this action removes the requirement to detach the towing wires from the doors for all on-reel gear stowage and removes the requirement to detach the towing wires from the net. Finally, to help streamline the gear stowage requirements, this action also reorganizes the current gear stowage regulations. This action is being implemented under authority delegated to the NMFS Regional Administrator. This action is intended to improve safety of fishing operations while at sea.

DATES: This rule is effective September 4, 2014.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, phone: (978) 281-9177.

SUPPLEMENTARY INFORMATION:

Background

The current trawl gear stowage regulations, at 50 CFR 648.23(b), require that trawl gear being stowed on the net reel be covered with a “canvas or similar opaque material” when transiting closed areas and areas with mesh size restrictions. The industry typically uses a commonly available opaque plastic tarp to meet this requirement, which is intended to help facilitate enforcement. However, industry has raised two safety concerns with this requirement. First, the tarps most frequently used have very few places where a rope or similar material can be attached to assist in pulling the tarp over the net reel. As a result, crew members at sea often have to climb or stand on the net reel or surrounding parts of the vessel to successfully cover the reel. This creates a safety concern for crew members who may slip or fall and injure themselves or others. In addition, because the tarps are non-porous, they catch wind, similar to a sail, adding to the difficulty of covering the net reel and increasing the safety risks.

As a result of these safety concerns, the New England Fishery Management Council’s Enforcement Committee has been working with the fishing industry and the United States Coast Guard (USCG) to develop an alternative to the tarp requirement for stowing trawl nets on the reel. Through public workshops and at-sea trials, the industry, USCG, and NMFS developed an orange mesh material as a safer alternative to the current tarp requirement. At its September 2013 meeting, the Council approved a motion requesting that the Regional Administrator implement two new trawl gear stowage methods and modify one provision of the existing methods. This action adds a provision to allow the use of a highly visible orange or yellow mesh material, as an alternative to the current requirement to use a tarp or similar canvas material. This action is being implemented under authority delegated to the NMFS Regional Administrator at § 648.23(b)(5), at the request of the Council.

In addition, when considering this revision to the gear stowage regulations, the Committee examined whether the current requirement that the “towing wires are detached from the doors” was also a safety concern. When trawl gear is being stowed, detaching the wires leaves the doors unsecured and swinging freely, which can result in damage to the vessel. This is particularly problematic for smaller fiberglass vessels. If the wires were allowed to remain attached to the doors, the doors could be held securely in place, preventing them from moving and causing damage to the vessel or injuring crew. The Committee, with support from the USCG and NMFS Office of Law Enforcement (OLE), concluded that this measure is no longer needed to conduct enforcement and, as such, recommends this measure be removed from the regulations pertaining to all on-reel gear stowage requirements. As a result, the new stowage methods do not include the requirement to remove the towing wires from the doors, and for all on-reel trawl gear stowage methods where it currently applies, this requirement is removed. In addition, the requirement that vessels remove the towing wire from the net is removed in this action. During the public comment period, as described below, the Council indicated that this requirement is outdated, as it was designed for use on Eastern rigged vessels, which have become obsolete, and is not necessary for the proper enforcement of the gear stowage provisions.

NMFS is also taking this opportunity under its authority at section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act to reorganize the current gear stowage regulations. Currently, all Greater Atlantic Region gear stowage regulations reside under the Atlantic mackerel, squid, and butterfish regulations at subpart B of 50 CFR part 648. The gear stowage regulations were originally implemented in Amendment 1 to the Northeast Multispecies Fishery Management Plan as part of the exempted fishing programs. These regulations were subsequently expanded and modified a number of