Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington DC 20590.

Will the Agency Consider Late Comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How Can I Read the Comments Submitted By Other People?

You may read the comments by visiting Docket Management in person at Room PL–401, 400 Seventh Street, SW., Washington, DC from 10 a.m. to 5 p.m., Monday through Friday.

You may also see the comments on the Internet by taking the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov*).

2. On that page, click on ''search.''

3. On the next page (*http://dms.dot.gov/search/*) type in the four-digit Docket number shown at the beginning of this document (NHTSA–2002–212391). Click on ''search.''

4. On the next page, which contains Docket summary information for the Docket you selected, click on the desired comments. You may also download the comments.

Authority: 49 U.S.C. 30111, 30117, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: July 19, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–18760 Filed 7–24–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223, 224 and 226

[Docket no. 020718171–2171–01 I.D. 071002B]

[RIN 0648–ZB25]

Listing Endangered and Threatened Species: Findings on a Delisting Petition, and Two Listing Petitions, Concerning 16 Evolutionarily Significant Units of Pacific Salmon and Steelhead

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

ACTION: Notice of findings; request for comments.

SUMMARY: SUMMARY: The National Marine Fisheries Service (NMFS) has received a delisting petition, as well as two listing petitions, concerning a total of 16 Evolutionarily Significant Units (ESUs) of chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), chum salmon (*O. keta*), and steelhead (*O. mykiss*) currently listed as threatened or endangered under the Endangered Species Act of 1973, as amended (ESA). NMFS finds that these three petitions present substantial scientific and commercial information to suggest that the petitioned actions may be warranted.

DATES: Written comments on these petition findings must be received by August 26, 2002.

ADDRESSES: Information or comments on this action should be submitted to the Assistant Regional Administrator, Protected Resources Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737. Comments will not be accepted if submitted via e-mail or the Internet. However, comments may be sent via facsimile to (503) 230–5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 231–2005; Craig Wingert, NMFS, Southwest Region, (562) 980–4021; or Chris Mobley, NMFS, Office of Protected Resources, (301) 713–1401. Additional information, including the petitions addressed in this notice, are available on the Internet at *www.nwr.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Salmon and Steelhead ESUs

NMFS is responsible for determining whether species, subspecies, or distinct population segments (DPSs) of Pacific salmon and steelhead are threatened or endangered species under the ESA. NMFS has determined that DPSs are represented by ESUs of Pacific salmon and steelhead, and treats ESUs as a ''species'' under the ESA (ESU policy; 56 FR 58612, November 20, 1991). To date, NMFS has completed comprehensive coastwide status reviews of Pacific salmonids and identified 51 ESUs in California, Oregon, Washington, and Idaho. Five of these ESUs are currently listed under the ESA as endangered, and 21 ESUs are listed as threatened.

Listing Factors and Basis for Petition Findings

Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving a petition for listing, reclassification, or delisting (among other things) the Secretary make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted. The ESA implementing regulations for NMFS define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (50 CFR 424.14(b)(1)). In evaluating a petitioned action, the Secretary must consider whether such a petition (1) clearly indicates the recommended administrative measure and the species involved, (2) contains a detailed narrative justification for the recommended measure, describing past and present numbers and distribution of the species involved and any threats faced by the species, (3) provides information regarding the status of the species over all or a significant portion of its range, and (4) is accompanied by appropriate supporting documentation (50 CFR 424.14(b)(2)). 50 CFR 424.11 describes the factors that must be considered in listing, reclassifying, or delisting a species under the ESA. Submitted petitions are considered in the context of these factors in determining whether a petition does or does not present substantial scientific and commercial information to suggest that the petitioned action may be warranted. A species may be listed or reclassified as a threatened or endangered species because of any one or a combination of the following factors: (1) The present or threatened destruction, modification, or

curtailment of a species' habitat or range; (2) overutilization for commercial, recreational, scientific or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting the species continued existence. A species may be delisted for one or more of the following reasons: (1) The species is extinct or has been extirpated from its previous range; (2) the species has recovered and is no longer endangered or threatened; or (3) investigations show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error.

Petitions Received

On March 14, 2002, NMFS received a petition from the Central Coast Forest Association (CCFA petition) to delist the threatened Central California Coast (CCC) coho salmon ESU. On April 29, 2002, NMFS received two petitions from Trout Unlimited and several co-petitioners (hereafter, Trout Unlimited petitions) to redefine and list a total of 15 ESUs currently listed as threatened or endangered. One of the Trout Unlimited petitions seeks to define the threatened Oregon coast coho ESU as including only natural fish (i.e., naturally spawned fish and their progeny, exclusive of all hatchery fish), and to list it as a threatened species under the ESA. The other Trout Unlimited petition seeks to define 14 ESUs as including only natural fish, and to list these ESUs as threatened or endangered species under the ESA. This petition addresses the naturally spawned portions of the: Puget Sound, Upper Willamette River, Snake River spring/summer, Snake River fall, Upper Columbia River spring, and Lower Columbia River chinook ESUs; Hood Canal summer and Columbia River chum ESUs; Southern Oregon/Northern California Coasts coho ESU; and the Upper Willamette River, Snake River, Middle Columbia River, Upper Columbia River, and Lower Columbia River steelhead ESUs.

Petition Findings

The petition findings on the CCFA and the Trout Unlimited petitions are informed by the September 2001 U.S. District Court ruling in *Alsea Valley Alliance* v. *Evans* (161 F. Supp. 2d 1154, D. Oreg. 2001; *Alsea* decision). The court ruled that it is arbitrary and capricious to exclude hatchery populations from listing if they are part of the same ESU as listed natural populations. The Court's ruling set aside NMFS' 1998 ESA listing of Oregon Coast coho salmon and ruled that the ESA does not allow NMFS to list a subset of an ESU by excluding hatchery fish within an ESU from listing. Although the Court's ruling affected only one ESU, the interpretive issue raised by the ruling called into question nearly all of the agency's Pacific salmonid listing determinations. In response to the *Alsea* decision, NMFS has announced that it will conduct status review updates for 25 ESUs potentially affected by the Court's ruling (67 FR 6215, February 11, 2002). Additionally NMFS announced that it would revise its policy on how it considers hatchery populations in making ESA listing determinations.

The CCFA petition seeks delisting of the CCC coho salmon ESU as a result of the *Alsea* decision. The CCC coho ESU was listed as a threatened species on October 31, 1996 (61 FR 56138). Only naturally spawned populations in the ESU were listed, and within-ESU hatchery populations were excluded from listing protection. Hence, the ESA interpretive issue raised by the Alsea decision pertains to the listing determination for the CCC coho ESU. NMFS thereby concludes that the CCFA petition presents substantial scientific and commercial information indicating the petitioned action may be warranted. This determination is consistent with previous NMFS findings on several petitions seeking to delist 14 other ESUs with unlisted hatchery populations (67 FR 6215, February 11, 2002).

The Trout Unlimited petitioners assert that hatchery populations are functionally distinct from naturally spawned populations in the 15 petitioned ESUs, and that the ESUs should be redefined to include only the naturally spawned populations. They present information describing continued adverse impacts and threats from hatchery production to the habitat, ocean survival, and long-term genetic fitness of natural populations in these ESUs. The petitioners provide a substantial collection of technical documents from the peer-reviewed scientific literature, as well as from the gray literature (e.g., non peer-reviewed data, reports, and technical memoranda from Federal and state management agencies), addressing the ecological and genetic relationship between hatchery and naturally spawned populations. These references describe threats posed by hatchery populations to natural populations, as well as differences between hatchery and natural populations in behavior, genetic composition, and fitness. In light of the substantial scientific information provided, the petitioners further assert that the inclusion of hatchery fish in ESUs with naturally spawned fish is inconsistent with the ESA statutory language and Congressional intent, as well as with NMFS' regulatory interpretations of the ESA.

NMFS maintains that its listing determinations have been wholly consistent with the existing regulations and policies guiding its listing determinations. The Alsea decision, however, ruled that NMFS' regulations guiding its consideration of hatchery populations in listing determinations are not consistent with the ESA. As mentioned above, NMFS is in the process of revising its policy on the consideration of hatchery fish in its ESA listing determinations to be consistent with the Alsea decision, and has initiated coastwide salmonid status review updates. The Trout Unlimited petitions provide scientific information that is relevant to NMFS' consideration of the relationship between hatchery and natural populations, and the delineation of Pacific salmon and steelhead ESUs. Accordingly, NMFS finds that the Trout Unlimited petitions present substantial scientific and commercial information indicating that the petitioned actions may be warranted.

Information Solicited

NMFS has already committed to conducting status review updates for the 16 Pacific salmon and steelhead ESUs addressed in the CCFA and Trout Unlimited petitions, as well as for nine other ESUs (67 FR 6215, February 11, 2002). The agency is also in the process of clarifying its policy on how it considers hatchery populations in making ESA listing determinations. NMFS will consider the information presented and the issues raised by these petitions in the course of revising its listing policy and conducting the coastwide status review updates.

NMFS has already solicited technical information to assist in these status review updates during two 60–day comment periods ending April 12, 2002, and August 12, 2002. NMFS is now requesting information and comment on the ecological and genetic relationship of hatchery and natural populations in the 15 ESUs addressed in the Trout Unlimited petitions. Additionally, NMFS seeks information and comment on the potential risks and benefits posed by artificial propagation to naturally spawning populations, and the extent to which such efforts may contribute to, or hinder, efforts being made to protect the species.

References

The complete citations for the references used in this document can be obtained by contacting NMFS or via the Internet (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

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

Dated: July 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–18861 Filed 7–24–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 071202A]

RIN 0648–AP41

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 5 to the Fishery Management Plan for the Shrimp Fishery off the Southern Atlantic States

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 5 to the Fishery Management Plan for the Shrimp Fishery off the Southern Atlantic States (FMP). This amendment would establish a limited access program for the rock shrimp fishery in the exclusive economic zone (EEZ) off Georgia and off the east coast of Florida (limited access area), establish a minimum mesh size for a rock shrimp trawl net in the limited access area, require the use of an approved vessel monitoring system (VMS) by vessels participating in the limited access program, and require an operator of a vessel in the rock shrimp fishery in the EEZ off the southern Atlantic states (North Carolina through the east coast of Florida) to have an operator permit. The intended effects are to minimize additional increases in harvesting capacity in the rock shrimp fishery; reduce the harvest of small, unmarketable rock shrimp; enhance compliance with fishery management regulations; improve protection of essential fish habitat, including an area that contains the last 20 acres of intact Oculina coral remaining in the world; and ensure the long-term economic viability of the rock shrimp fishery.

DATES: Written comments must be received on or before September 23, 2002.

ADDRESSES: Written comments on the Comprehensive SFA Amendment should be sent to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments may also be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or the Internet.

Requests for copies of Amendment 5, which includes a final supplemental environmental impact statement, initial regulatory flexibility analysis, regulatory impact review, and a social impact assessment/fishery impact statement, should be sent to the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407–4699, Email: safmc@safmc.net.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, telephone: 727–570–5305; fax: 727–570–5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The shrimp fishery off the Southern Atlantic States in the EEZ is managed under the FMP approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

In its preliminary qualitative analysis of Federally managed fisheries conducted in March 2001, NMFS classified the rock shrimp fishery off the southern Atlantic states as one of the fisheries where there are indications of over-capacity. With over-capacity and open access to the fishery, any gains in the health of the stocks would likely attract new entrants and an increase in harvesting capacity. Accordingly, Amendment 5 proposes a limited access program for the fishery off Georgia and the east coast of Florida. The intended effects are to minimize additional increases in harvesting capacity in the rock shrimp fishery; reduce the bycatch of small, unmarketable rock shrimp; enhance compliance with fishery management regulations; improve protection of essential fish habitat, including an area that contains the last 20 acres of intact Oculina coral remaining in the world; and ensure the long-term economic viability of the rock shrimp industry.

The current requirement for a Federal vessel permit for the rock shrimp fishery remains in effect. However, in addition, to participate in the fishery off Georgia and the east coast of Florida, a limited access endorsement for South Atlantic rock shrimp would be required. Initially, NMFS would issue a limited access endorsement to the owner of a vessel that had a valid Federal permit for South Atlantic rock shrimp on or before December 31, 2000, and that had landings of at least 15,000 lb of rock shrimp from the South Atlantic EEZ during one of the calendar years 1996 through 2000. A vessel that had a Federal permit for South Atlantic rock shrimp would be determined solely from NMFS' permit records. Claimed landings would be verified from landings data in state or Federal database systems; the landings must have been submitted on or before January 31, 2001. For the purpose of initial eligibility for a limited access endorsement, the owner of a vessel that had a permit for rock shrimp during the qualifying period would retain the rock shrimp landings record of that vessel during the time of his/her ownership, unless a sale of the vessel included a written agreement that credit for qualifying landings was transferred to the new owner.

An owner issued a limited access endorsement could request that the permit be transferred to another vessel or to another vessel owner by submitting an application for transfer to the Regional Administrator (RA). An owner must report any costs associated with such transfer on the application for transfer. A transfer of a limited access endorsement to a new owner would include the transfer of the vessel's entire catch history of South Atlantic rock shrimp to the new owner.

The RA would not reissue a limited access endorsement for South Atlantic rock shrimp if the permit is revoked or if a required application for renewal of the permit is not received within 1 year after the permit's expiration date. Additionally, a limited access endorsement for rock shrimp that is inactive for a period of 4 consecutive calendar years would not be renewed.

Historically, the cod end mesh size commonly used in the rock shrimp fishery was 1 7/8 to 2 inches (4.76 to 5.08 cm) stretched mesh. Some fishermen are now using smaller mesh or are putting a bag liner inside the cod end. This results in the catch of juvenile rock shrimp, some of which are unmarketable and are discarded dead. This Amendment would establish a minimum mesh size for the cod end of 1 7/8 inches (4.76 cm) and prohibit the