

TABLE TWO

Vessel	Number	Masthead lights distance to stbd of keel in meters; Rule 21 (a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
USS PROVIDENCE	SSN 719	0.41	X	X	X	X	X	X	X

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Approved: August 13, 2009.

C.J. Spain,

*Deputy Assistant Judge Advocate General
(Admiralty and Maritime Law), Acting.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 0907291194-91213-01]

RIN 0648-XQ71

Listing Endangered and Threatened Species: Change in Status for the Upper Columbia River Steelhead Distinct Population Segment

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

ACTION: Final rule; correcting amendment.

SUMMARY: We, NMFS, announce that the Upper Columbia River steelhead is reclassified as a threatened species consistent with a recent court ruling. We also correct the table of threatened fishes to indicate that the same species is listed as threatened under the Endangered Species Act of 1973 (ESA). This species was inadvertently dropped from the table during an unrelated rulemaking.

DATES: Effective August 24, 2009.

FOR FURTHER INFORMATION CONTACT: For further information regarding this notice contact Eric Murray, NMFS, Northwest Region, (503) 231-2378; or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

In 1997, we completed a comprehensive status review of West Coast steelhead (*Oncorhynchus mykiss*) that resulted in ESA listings for Upper Columbia River (UCR) steelhead and nine other distinct population segments (DPSs) of West Coast steelhead (62 FR 43937; Busby *et al.*, 1996). At that time, we determined that the UCR steelhead was an endangered species. In January 2006, we reclassified the UCR steelhead from endangered to threatened based on an updated review that noted increasing steelhead abundance, more widespread spawning, and artificial propagation programs aimed at improving local adaptation and diversity within the range of this DPS (71 FR 834; January 5, 2006). The decision to downlist UCR steelhead was also based on our application of a recent Policy on the Consideration of Hatchery-Origin Fish in Endangered species Act Listing Determinations for Pacific Salmon and Steelhead (70 FR 37204; June 28, 2005). Subsequent to this downlisting, we also published protective regulations (71 FR 5178; February 1, 2006), designated critical habitat (70 FR 52630; September 2, 2005), and adopted a recovery plan (72 FR 57303; October 10, 2007) for UCR steelhead. In April 2006, our decision to downlist UCR steelhead from endangered to threatened was challenged in the U.S. District Court for the Western District of Washington.

On June 13, 2007, the district court ruled that we had erred in downlisting UCR steelhead, concluding that we had not given appropriate consideration to self-sustaining natural populations (*Trout Unlimited v. Lohn*, C06-0483-JCC, 2007). The result of this ruling was to return UCR steelhead to endangered status. We appealed that decision to the U.S. Court of Appeals for the Ninth Circuit, and on March 16, 2009, that court ruled that our downlisting did not violate the ESA and that, on remand, the district court should grant NMFS' motion for summary judgment.

Accordingly, on June 18, 2009, the district court revised its ruling, effectively re-instating UCR steelhead to threatened status under the ESA.

Current Status

Consistent with the Courts' rulings and our listing determination of January 5, 2006 (71 FR 834), the UCR steelhead is listed as threatened under the ESA. Critical habitat was designated for UCR steelhead on September 2, 2005 (70 FR 52630). The protective regulations issued for UCR steelhead on February 1, 2006 (71 FR 5178) are now effective. A recovery plan was adopted for UCR steelhead on October 9, 2007 (72 FR 57303).

Correcting Amendment

In the May 9, 2006, issue of the **Federal Register**, we published a final rule to implement our determination to list elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals as threatened species under the ESA (71 FR 26852). In the same action, we made a format change to ensure that all threatened species listed under sect; (223.102 were in table format to match the threatened fishes table. By mistake, we did not include the already listed UCR steelhead DPS in § 223.102(c). This document corrects the table in § 223.102(c) to include the UCR steelhead DPS as a threatened species.

References

Copies of previous **Federal Register** Notices and reference materials are available on the Internet at <http://www.nwr.noaa.gov>, or upon request (see **FOR FURTHER INFORMATION CONTACT** section above).

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: August 17, 2009.

Samuel D. Rauch III,

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

■ Accordingly, 50 CFR part 223 is corrected by making the following correcting amendment:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

■ 2. In § 223.102, paragraph (c)(25) is added to the table to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation(s) for Critical Habitat Designation(s)
Common Name	Scientific Name			
(c) * * *				
(25) Upper Columbia River steelhead	<i>Oncorhynchus mykiss</i>	U.S.A., WA, Distinct Population Segment including all naturally spawned anadromous <i>O. mykiss</i> (steelhead) populations below natural and manmade impassable barriers in streams in the Columbia River Basin upstream from the Yakima River, Washington, to the U.S.-Canada border, as well as six artificial propagation programs: the Wenatchee River, Wells Hatchery (in the Methow and Okanogan Rivers), Winthrop NFH, Omak Creek, and the Ringold steelhead hatchery programs.	71 FR 834; January 5, 2006	70 FR 52630; September 2, 2005
*	*	*	*	*

¹Species includes taxonomic species, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996) and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 090206152–9249–01]

RIN 0648–AX61

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Emergency Rule; Extension

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: NMFS is continuing emergency measures to reduce the target total allowable catch (TAC) and associated days-at-sea (DAS) allocations in the Atlantic deep-sea red crab fishery, based on recent scientific information. The red crab stock was assessed by the Data Poor Stocks Working Group in the fall of 2008, and a final report published in January 2009 indicates that the current estimate of maximum sustainable yield (MSY) for red crab is no longer reliable. This action is

necessary to comply with the objectives of the Deep-Sea Red Crab Fishery Management Plan (FMP), as well as to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action is intended to prevent unsustainable fishing of the red crab resource while the New England Fishery Management Council (Council) develops specifications and measures to address the new assessment results.

DATES: The expiration date of the emergency rule published March 6, 2009 (74 FR 9770); is extended to February 28, 2010, or until superseded by another final rule which will publish in the **Federal Register**.

ADDRESSES: Copies of the Small Entity Compliance Guide, the Regulatory Impact Review (RIR), and the Environmental Assessment (EA) prepared for the March 6, 2009, emergency interim final rule are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: NMFS published a rule that implemented emergency measures to prevent unsustainable fishing in the Atlantic deep-sea red crab fishery in response to

results from the Northeast Fisheries Science Center's Data Poor Stocks Working Group and Review Panel. A temporary rule justifying emergency action and soliciting public comment on the emergency management measures was published on March 6, 2009 (74 FR 9970), and NMFS accepted comments through April 6, 2009. The measures implemented by the emergency interim final rule include: (1) a reduction in the 2009 target total allowable catch from 5.928 million lb (2,689 mt) to 3.56 million lb (1,615 mt); and (2) a reduction in the number of DAS initially allocated to each of the five limited access permit holders from 156 DAS to 116 DAS. However, as has occurred each year since 2003, one of the limited access permits has been declared out of the fishery for the 2009 fishing year. Therefore, the total fleet-wide allocation of 582 DAS is reallocated, and the resulting DAS allocation remains 146 DAS for each of the active four limited access permit holders. These measures became effective on April 6, 2009, and remain in effect for a period of 180 calendar days, expiring on September 2, 2009. A more detailed explanation and background for this action was provided in the rule published on March 6, 2009, and is not repeated here. This action extends these regulations through the end of the red crab fishing year. The