

morphological data at this time support the recommendation of Paquin and Hedin (2005) to treat these three species as one species.

Previous Federal Actions

Previous Federal actions can be found in our 90-day finding that published on February 1, 2005 (70 FR 5123), and in our notice reopening the comment period on August 16, 2005 (70 FR 48093). That information is incorporated by reference into this 12-month finding.

In addition to information incorporated by reference we note that the first comment period for providing information for our status review closed May 15, 2005. Pursuant to 50 CFR 424.16(c)(2), we may extend or reopen a comment period upon finding that there is good cause to do so. We reopened the comment period from May 23 to June 22, 2005 (70 FR 29471; May 23, 2005), since additional information from the genetic analysis of *Cicurina* species in southern Travis County was completed. Several parties requested another extension of the comment period. We reopened the public comment period from August 16 to 30, 2005 (70 FR 48093; August 16, 2005). During this final comment period, we made available the results of our peer review on the Paquin and Hedin (2005) report.

Finding

We have carefully assessed the best scientific and commercial information available regarding the taxonomic status of *Cicurina cueva*. We reviewed the petition, available published and unpublished scientific and commercial information, and information submitted to us during the public comment periods on our status review following our 90-day finding. This finding reflects and incorporates information we received during the public comment periods. We also consulted with recognized spider and karst invertebrate experts. On the basis of this review, we find that listing *C. cueva* is not warranted because *C. cueva* does not meet the definition of a "species" under the Act.

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor at the Austin Ecological Services Office (see ADDRESSES section).

Author

The primary author of this document is the Austin Ecological Services Office (see ADDRESSES section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 8, 2005.

Marshall P. Jones Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 05-24119 Filed 12-16-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 041110317-4364-02; I.D. 121205C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New York

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 2005 summer flounder commercial quota available to New York has been harvested and is announcing the closure of summer flounder in Federal waters. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New York for the remainder of calendar year 2005, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise New York of the closure and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in New York.

DATES: Effective 0001 hours, December 14, 2005, through 2400 hours, December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Mike Ruccio, Fishery Management Specialist, (978) 281-9104.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2005 calendar

year was set equal to 18,180,002 lb (8,246,395 kg) (70 FR 303, January 4, 2005). The percent allocated to vessels landing summer flounder in New York is 7.64699 percent, resulting in a commercial quota of 1,390,223 lb (630,601 kg). However, the 2005 allocation to New York was reduced to 1,374,164 lb (623,317 kg) due to research set-aside. The states of North Carolina, New Jersey, and Rhode Island and the Commonwealth of Virginia have transferred a total of 50,530 lb (22,920 kg) to New York in accordance with the Atlantic States Marine Fisheries Commission Addendum XV to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, bringing the total quota to 1,424,694 lb (646,241 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota has been harvested. NMFS then publishes a notification in the **Federal Register** to advise the state and to notify Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that New York has harvested its quota for 2005.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, December 14, 2005, further landings of summer flounder in New York by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2005 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, December 14, 2005, federally permitted dealers may not purchase summer flounder from federally permitted vessels that land in New York for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: December 14, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service
[FR Doc. 05-24204 Filed 12-14-05; 1:57 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050620162-5326-02; I.D. 061505D]

RIN 0648-AS30

Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Additional Measures to Reduce the Incidental Catch of Seabirds in the Hawaii Pelagic Longline Fishery

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

ACTION: Final rule; notice of availability of Record of Decision (ROD).

SUMMARY: NMFS issues a final rule to implement measures to further reduce the incidental catch of seabirds in the Hawaii-based longline fishery. Depending on the fishing method and area where the vessels operate, owners and operators of longline fishing vessels must either side-set (deploy longline gear from the side of the vessel rather than from the stern) or use a combination of other seabird mitigation measures to prevent seabirds from being accidentally hooked, entangled, and killed during fishing operations.

NMFS also announces the availability of the ROD for the "Final Environmental Impact Statement, Seabird Interaction Avoidance Methods under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region and Pelagic Squid Fishery Management under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region and the High Seas Fishing Compliance Act" (FEIS). The ROD announces that NMFS selects the Preferred Alternative of the FEIS, modified slightly, to cost-effectively further reduce the potentially harmful effects of the Hawaii-based longline fishery on seabirds.

DATES: Effective January 18, 2006.

ADDRESSES: Copies of the following documents are available from William L. Robinson, Administrator, NMFS, Pacific Islands Region (PIR), 1601

Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814:

- The Regulatory amendment document entitled "Additional Measures to Reduce the Incidental Catch of Seabirds in the Hawaii-Based Longline Fishery" (April 6, 2005), which contains a Regulatory Impact Review and a Final Regulatory Flexibility Assessment (FRFA);
- The FEIS; and
- The ROD for the FEIS.

Requests for copies of any of these documents should indicate whether paper copies or electronic copies on CD-ROM are preferred. These documents are also available at the following web site: <http://swr.nmfs.noaa.gov/pir>.

FOR FURTHER INFORMATION CONTACT: Robert Harman, NMFS PIR, 808-944-2271.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at: <http://www.archives.gov/federal-register/publications>.

Background

On July 13, 2005, NMFS published in the **Federal Register** a proposed rule (70 FR 40302) that, depending on the fishing method and area where the vessels operate, would require owners and operators of Hawaii-based longline fishing vessels to either side-set (deploy longline gear from the side of the vessel rather than from the stern) or use a combination of other seabird mitigation measures to prevent seabirds from being accidentally hooked, entangled, and killed during fishing operations.

NMFS, the Western Pacific Fishery Management Council (WPFMC), and the fishing industry have collaborated on research to test side-setting and other measures as additional seabird deterrent methods for Hawaii longline vessels. The research results were analyzed and considered by the WPFMC as potential new seabird mitigation requirements to cost-effectively further reduce the effects of the Hawaii longline fleet on seabirds. In October 2004, the WPFMC recommended that NMFS amend the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP) regulations to include the following seabird conservation measures: (a) when fishing north of 23° N. lat., all deep-setting Hawaii longline vessels must either side-set, or use a tori line (bird-scaring) system plus the currently-required measures (blue-dyed thawed bait, strategic offal discards, and line shooter with weighted branch lines), with the requirement to use

strategic offal discards modified to require that vessel operators use them only when seabirds are present; and (b) all shallow-setting Hawaii longline vessels, wherever they fish, must either side-set, or use a tori line plus the currently required measures (night setting, blue dyed thawed bait, and strategic offal discards), with the requirement to use strategic offal discards modified to require that vessel operators use them only when seabirds are present.

In the ROD for the FEIS, NMFS selects the Preferred Alternative of the FEIS, modified slightly, to cost-effectively further reduce the potentially harmful effects of the Hawaii-based longline fishery on seabirds. The original Preferred Alternative included a requirement to add weights of 60 g (2.1 oz) to each branch line while side-setting. The modified Preferred Alternative reduces the weight requirement used on branch lines while side-setting to 45 g (1.6 oz). Additionally, the modified Preferred Alternative eliminates the requirement to use tori line systems.

Additional background on this final rule may be found in the preamble to the proposed rule (70 FR 40302, July 13, 2005) and is not repeated here.

Comments and Responses

NMFS received comments on the proposed rule (70 FR 40302, published July 13, 2005) from fishing industry organizations, government agencies, environmental groups, and private citizens. The responses are found later in this section. Based on comments received and on subsequent action by the WPFMC, the final rule contains changes to the proposed rule that change the weight required to sink branch lines and remove the proposed requirement to use tori lines when not side-setting, and clarify technical specifications related to gear deployment.

Prompted by several of the comments, the WPFMC held a meeting by teleconference on November 1, 2005, to address and discuss recent analyses involving two elements of the proposed rule, and to make adjustments to their recommendations in the proposed rule. As a result of the recommendations from that meeting, the final rule contains changes to the proposed rule that modify one technical requirement and remove another requirement.

The first issue addressed by the WPFMC, the requirement to use 60 g (2.1 oz) weights on branch lines used to sink baited hooks on branch lines when side-setting, was revisited on two grounds: safety and relative