

## References

A complete list of all cited references is available upon request (see ADDRESSES).

## Classification

### *National Environmental Policy Act*

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F. 2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA). See NOAA Administrative Order 216-6.

### *Executive Order 12866 and Regulatory Flexibility Act*

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. In addition, this proposed rule is exempt from review under Executive Order 12866.

### *Executive Order 13132—Federalism*

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, NMFS has conferred with state and local government agencies in the course of assessing the status of the KMP steelhead ESU and considered, among other things, state and local conservation measures. State and local governments have expressed support for the conservation of KMP steelhead and made efforts to reduce risks faced by the ESU. The history and content of this dialogue, as well as the basis for this proposed action, are described in the SUPPLEMENTARY INFORMATION section of this document and in other Federal Register documents preceding this proposed action. (See 61 FR 41541, August 9, 1996; 62 FR 43974, August 18, 1997; and 63 FR 13347, March 19, 1998). NMFS' staff have had numerous discussions with various governmental agency representatives regarding the status of this ESU and have sought working relationships with agencies and others in order to promote salmonid restoration efforts. In addition, NMFS' staff have given presentations to interagency forums and other interested groups considering conservation measures. As the process continues,

NMFS intends to continue engaging in informal and formal contacts with affected state, local, or regional entities, giving careful consideration to all written or oral comments received. As one part of that continued process, NMFS has scheduled public hearings on this proposed action. NMFS also intends to consult with appropriate elected officials in consideration of a final rule.

### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

NMFS has consulted with affected tribes throughout the course of the West Coast steelhead status review. These consultations have included numerous presentations and discussions with tribal officials and representatives, in particular, the Klamath River Basin tribes, regarding the status of the KMP steelhead and conservation efforts directed at this ESU. NMFS will continue to actively engage the affected tribes and will seek their assistance and expertise to complete the agency's KMP steelhead status review. Moreover, the agency will carry out its responsibilities under the Act in a manner that recognizes tribal sovereignty and harmonizes the agency's statutory missions with Federal trust responsibilities to tribes and that strives to ensure that Indian tribes do not bear a disproportionate burden for the conservation of listed species. In keeping with E.O. 13175, NMFS will summarize the history of consultations with affected tribes and describe the manner in which tribal concerns were addressed at the time of the final listing determination for KMP steelhead.

### List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: February 7, 2001.

**William T. Hogarth,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 223 is proposed to be amended as follows:

## 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 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 223.102, paragraph (a)(23) is added to read as follows:

### § 223.102 Enumeration of threatened species.

\* \* \* \* \*

(a) \* \* \*

(23) Klamath Mountains Province steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of steelhead (and their progeny) in coastal river basins ranging from the Elk River in Curry County, Oregon, to the Klamath River, inclusive, in Del Norte County, California.

\* \* \* \* \*

[FR Doc. 01-3545 Filed 2-9-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 013001A]

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Public Hearings

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

**ACTION:** Notice of public hearing; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a public hearing to address issues regarding the use of powerhead gear (or "bangsticks") by recreational and commercial divers fishing in the Exclusive Economic Zone off the east coast of Florida, within the Council's area of jurisdiction, for reef fish species in the management unit of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP).

**DATES:** Written comments will be accepted until 12 noon, February 26, 2001. For the specific date and time of the hearing see SUPPLEMENTARY INFORMATION.

**ADDRESSES:** Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; telephone: (843) 571-4366; FAX (843) 769-4520; email address: safmc@noaa.gov. Copies of the Options Paper addressing powerhead gear issues are available from the Council at the same address. The meeting will be held in Atlantic Beach, FL.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, telephone: 843-571-4366; fax: 843-769-4520; email address: kim.iverson@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The public hearing will be convened to obtain the views of fishery participants and the general public regarding specific issues about the use of powerhead gear to target reef fish species in the FMP's management unit. The issues to be addressed include the following: Conflicts/competition between user groups; harvest of lethargic fish during the winter months; harvest of aggregations of spawning fish; excessive harvesting by divers; and, the illegal sale of fish. The Council intends that proposed regulatory actions to address these issues would be through a regulatory amendment under the FMP's framework procedure for regulatory adjustments.

#### **Date, Time, and Location for Public Hearing**

The public hearing will be held on Tuesday, February 20, 2001, beginning at 6 p.m., and will be held at the Sea Turtle Inn, One Ocean Boulevard, Atlantic Beach, FL 32233; telephone: (904) 249-7402; FAX (904) 247-1517.

#### **Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council (see **ADDRESSES**) by February 12, 2001.

Dated: February 6, 2001

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 01-3548 Filed 2-9-01; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[I.D. 011101A]

**RIN 0648-AF87**

#### **Fisheries of the Northeastern United States; Tilefish Fishery Management Plan**

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

**ACTION:** Notice of availability of a fishery management plan; request for comments.

**SUMMARY:** NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted the Tilefish Fishery Management Plan (FMP) for Secretarial review and is requesting comments from the public. The FMP would initiate Federal management of golden tilefish (*Lopholatilus chamaeleonticeps*) (tilefish) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The overall goal of the FMP is to rebuild tilefish so that the optimum yield can be obtained from this resource.

**DATES:** Comments must be received not later than 5 p.m., Eastern Standard Time, on April 13, 2001.

**ADDRESSES:** Comments on the FMP should be sent to Patricia A. Kurkul, Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope, "Comments on Tilefish FMP."

Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the FMP, its regulatory impact review, initial regulatory flexibility analysis, final environmental impact statement, and supporting documents are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, Dover, DE 19904-6790.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, Fishery Policy Analyst, (978) 281-9104, e-mail at M.A.Raizin@noaa.gov, fax at (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** FMPs and amendments must meet the requirements of the Magnuson-Stevens Act as well as a number of other Federal laws and regulations. The FMP has been developed to meet all Federal requirements and contains all the required elements of an FMP. In particular, the FMP addresses the Magnuson-Stevens Act requirement that an FMP be developed for overfished species and that targets and thresholds for stock size and fishing mortality be established.

A recent NMFS stock assessment indicates that the tilefish stock north of North Carolina is at a low biomass level and is overexploited. Total tilefish biomass in 1998 was estimated to be 6.8 million lb (3.1 million kg), which is about 35 percent of the biomass (B) that would produce maximum sustainable

yield (MSY) or  $B_{MSY}$ . Biomass-based fishing mortality (F) was estimated to be 0.45, which is about double the F at MSY ( $F_{MSY}$ ) of 0.22. Total landings in 1998 were 2.7 million lb (1.2 million kg) and significantly below the estimated MSY of 4.2 million lb (1.9 million kg). Current fishing mortality rates are unsustainable, as indicated by a shift in the exploitation pattern towards smaller fish.

The management unit for the FMP is defined as all golden tilefish under United States jurisdiction in the Atlantic Ocean north of the Virginia/North Carolina border. Tilefish south of the Virginia/North Carolina border are currently managed as part of the Fishery Management Plan for the Snapper-Grouper Fishery prepared by the South Atlantic Fishery Management Council. The fishing year for tilefish would be the 12-month period beginning with the implementation date of the FMP.

To meet the overall goal of the FMP, the Council adopted the following objectives: (1) Prevent overfishing and rebuild the resource to the biomass that would support MSY; (2) prevent overcapitalization and limit new entrants; (3) identify and describe essential fish habitat; and (4) collect necessary data to develop, monitor, and assess biological, economic, and social impacts of management measures designed to prevent overfishing and to reduce bycatch in all fisheries.

The FMP would establish: (1) An overfishing definition; (2) a 10-year rebuilding schedule; (3) permit and reporting requirements for commercial vessels, operators, and dealers; (4) an FMP Monitoring Committee; (5) a framework adjustment process; (6) a commercial quota to be divided into full-time, part-time, and incidental categories; (7) a trip limit for the incidental category (non-longline); (8) a limited entry scheme for the full-time and part-time quota categories; and (9) an identification and description of essential fish habitat (EFH) for tilefish.

#### **Overfishing Definition**

The Magnuson-Stevens Act requires each fishery management plan to specify objective and measurable status determination criteria for identifying when stocks or stock complexes are overfished. Status determination criteria for tilefish would specify a maximum fishing mortality rate (F) threshold and minimum stock size threshold. The maximum F threshold would be specified as  $F_{MSY}$ , and the minimum biomass threshold would be specified as  $\frac{1}{2} B_{MSY}$ . Guidelines for the Magnuson-Stevens Act National Standards suggest that a risk-averse fishing mortality rate