

FOR FURTHER INFORMATION CONTACT: Dr. Andrew F. Robinson, Jr., staff botanist, see **ADDRESSES** section or telephone 503/231-6179.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, the Service make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the Federal Register.

On June 28, 1989, the Service received a petition dated May 1, 1989, from Steve Paulson representing Friends of the Clearwater, Lenore, Idaho, to list *Mimulus clivicola* (bank monkeyflower) as an endangered species. The petition cited as potential threats to the species an extremely limited range, the threatened destruction of habitat (specifically the Dworshak connection road, Clearwater National Forest), and the inadequacy of existing regulatory mechanisms. At the time of the petition there were only 30 documented populations of *M. clivicola*. A 90-day finding was made by the Service that the petition presented substantial information indicating that the requested action may be warranted. The 90-day finding was published in the Federal Register on November 1, 1990 (55 FR 46080). A status review was continued for the category 2 candidate species (50 FR 6214; February 21, 1990). The Service reclassified *Mimulus clivicola* as a category 3C candidate on September 30, 1993 (58 FR 51175) as a result of new information about the status of the species. Category 3C candidates are those taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat.

Mimulus clivicola is an annual herb up to about 6 inches in height with purple flowers and opposite elliptic leaves. *M. clivicola* occurs within fairly mountainous regions from 1,200 feet to 7,120 feet elevation in Idaho and Oregon. The plant is typically found where there is exposed mineral soil, including sites where the soil has been exposed because of big game activity or

manmade disturbance along trails and roadcuts. However, the species also needs moist areas that are saturated in the spring. Today there are 152 known extant populations with a combined population size varying from 46,000 to 63,000 plants that occupy 132 acres of habitat. The majority of the populations (92 percent) occur on Federal land including 6 populations occurring on Bureau of Land Management lands and 134 on Forest Service lands. Only 12 populations (8 percent) occur on private lands.

A Species Management Guide, which specifically addresses conservation strategies for *Mimulus clivicola* on Forest Service lands was prepared in 1992 by the Forest Service. Of the 134 populations occurring on Forest Service lands, 58 were identified for protection with the 1992 Species Management Guide. The construction of Dworshak Reservoir on the North fork Clearwater River destroyed habitats occupied by *M. clivicola* (the Ahasanka and Dent populations). Although road building/maintenance, mining, recreational activities, timber harvest, cattle grazing, and alien plant invasions still disturb 118 out of 152 populations (78 percent) of *M. clivicola*, recent information indicates that this species is tolerant of moderate disturbance. This conclusion is based on the fact that much of the habitat with areas of exposed mineral soil that support *M. clivicola* populations was along the tops of older roadcuts or beside trails. Currently 20 populations grow along trails and 68 grow along roads. Eight populations occurring on the Payette National Forest in Idaho and Wallowa-Whitman National Forests in Oregon are subject to damage by livestock grazing. Exclosures were constructed around two of these populations in the Wallowa-Whitman National Forests in 1990 to protect these sites. The presence of *Bromus tectorum* (cheatgrass), a weedy alien annual plant, has been documented as being present in 59 (39 percent) populations of *M. clivicola*. Preliminary laboratory studies suggest that *B. tectorum* inhibits germination (allelopathic affects) of selected native plants. *M. clivicola* is an annual species, and thus the presence of *B. tectorum* and the possibility of it inhibiting germination of seed of *M. clivicola* may affect these populations. However, there is no information at this time to indicate that the continued existence of *M. clivicola* as a species is threatened by the presence of such invasive alien plants.

The service has reviewed the petition, other available literature and information, and consulted with biologists and researchers familiar with

Mimulus clivicola. On the basis of the best scientific and commercial information available regarding *M. clivicola*, the Service finds that the petitioned action is not warranted at this time because the taxon is not in danger of extinction or likely to become so in the foreseeable future. The Service reclassified *M. clivicola* as a category 3C candidate on September 30, 1993 (58 FR 51175). Category 3C candidates are those taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat. If information becomes available indicating that *M. clivicola* may be threatened with extinction, the Service would reevaluate this decision.

References

A complete list of references used in the preparation of this finding is available upon request from the Portland Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Dr. Andrew F. Robinson Jr., Portland Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: September 19, 1995.

John G. Rogers,

Director, Fish and Wildlife Service.

[FR Doc. 95-23974 Filed 9-26-95; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List Desert Redband Trout in the Snake River Drainage Above Brownlee Dam and Below Shoshone Falls as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the desert populations of interior redband trout (*Oncorhynchus mykiss gairdneri*) in the Snake River drainage above Brownlee Dam and below Shoshone Falls as a threatened or endangered species under the Endangered Species Act of 1973, as amended. The Service finds that the petition did not present substantial scientific or commercial information

indicating that the petitioned action may be warranted because it fails to substantiate that these populations of redband trout constitute a distinct population segment.

DATES: The finding announced in this document was made on September 20, 1995.

ADDRESSES: Data, information, comments, or questions concerning this petition should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 4696 Overland Road, Room 576, Boise, Idaho 83705. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Patricia Klahr, staff biologist (see **ADDRESSES** section) (telephone 208/334-1931).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service (Service) make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition and must be promptly published in the Federal Register.

On April 11, 1995, a petition dated April 3, 1995, was received by the Service from the Idaho Watersheds Project, Inc., Oregon Natural Desert Association, Oregon Natural Resources Council, Idaho Sporting Congress, Idaho Conservation League, Committee for Idaho's High Desert, Elko County Conservation Association, Nevada Wildlife Federation, and Dr. Don W. Johnson (petitioners). The petitioners requested the Service list the desert redband trout (*Oncorhynchus mykiss spp.*) in the Snake River drainage above Brownlee Dam and below Shoshone Falls as threatened or endangered under the Act. The Service accepts the taxonomic system proposed by Behnke (1992) and recognizes the interior redband trout as the subspecies *Oncorhynchus mykiss gairdneri*. An amendment to this petition, dated July 6, 1995, and received on July 7, 1995, changed the species' range under consideration to exclude forested higher altitude watersheds and include lower elevation desert rivers and streams. The petitioners state that these populations

of interior redband trout have been recognized as distinctive based on their physiological tolerance to severe desert environments and on their external appearance. Threats that were identified include degradation of riparian habitat resulting from land use practices and decreased stream flows due to irrigation withdrawals.

The interior redband trout is designated a species of concern to the Service (formerly category 2 species, 59 FR 58982, November 15, 1994). This designation includes taxa for which information in the Service's possession indicates that listing is possibly appropriate but for which the Service lacks sufficient information upon which to base a proposal to list as endangered or threatened.

The Service has reviewed the petition, the literature cited in the petition, and other literature and information available in the Service's files. On the basis of the best scientific and commercial information available, the Service finds the petition does not present substantial information indicating that the petitioned action may be warranted because there is insufficient information to show that interior redband trout of the middle Snake River desert area are a distinct population segment under the Act.

Within the trout species *Oncorhynchus mykiss*, Behnke (1992) includes three major groups composed of four subspecies. The petitioned populations of redband trout are found within the Columbia River basin east of the Cascade Mountains and are included by Behnke (1992) as part of *O. m. gairdneri*. This subspecies currently includes anadromous steelhead populations, populations adapted to lakes (kamloops trout), and resident stream populations. Behnke (1992) describes the subspecies' distribution as the Columbia River basin east of the Cascades to barrier falls on the Kootenai, Pend Oreille, Spokane, and Snake rivers; the upper Fraser River basin above Hell's Gate; and Athabasca River headwaters of the Mackenzie River basin. The historical range of the interior redband trout includes Idaho, Montana, Nevada and Oregon (56 FR 58815, November 21, 1991).

There has been confusion regarding the taxonomic classification of interior redband trout (Behnke 1986, Behnke 1992), probably due to similar morphological and meristic characteristics with other rainbow and cutthroat trout species (Berg 1987). The taxonomy is further complicated by the subspecies' diversity and adaptability, as interior redband trout are found in high mountain streams as well as in arid

desert drainages. A Service review of the literature and discussions with regional fisheries biologists reveals an ongoing debate about the definition of interior redband trout. Presently there appears to be general agreement that the interior rainbow trout "complex" includes redband trout of the Columbia basin east of the Cascade range up to barrier falls, and including anadromous steelhead, making the distribution of this subspecies wide and diverse.

The petitioners state that redband trout in the Snake River drainage upstream of Brownlee Dam and below Shoshone Falls constitute a distinct vertebrate population segment because geographic and ecological isolation of the individuals have resulted in unique adaptations for survival in habitat unsuitable to other trout, as well as other genetic differences. Further, the external appearance of redband trout is distinctive, displaying characteristics of both rainbow and cutthroat trout.

The petitioners did not present genetic data to support differentiation of "desert" redband trout from other populations of redband trout. Genetic information cited in the petition described genetic differences between interior redband trout, and trout of hatchery origin or coastal rainbow trout (*O. m. irideus*) (Wallace 1979, Leary et al. 1983, Sage et al. 1992, Williams and Shiozawa 1993). In addition, the physical appearance of redband trout is not unique to "desert" redband trout (Behnke 1992), and therefore is not an indication of distinctness for redband trout from the Snake River drainage upstream of Brownlee Dam and below Shoshone Falls.

Therefore, the petition does not provide any information to support the claim that significant ecological isolation has occurred such that this grouping of redband trout has evolved apart from the remainder of the subspecies. Specifically, no information was provided to indicate that the petitioned group of redband trout is distinct or discrete from the redband trout populations occupying hundreds of miles of habitat in the inland northwest. In addition, this petitioned group does not constitute a significant portion of the range of the interior redband trout.

The Service concludes that the data contained in the petition, referenced in the petition, and otherwise available to the Service do not present substantial information that the petitioned action may be warranted. The Service will retain the interior redband trout as a species of concern and will continue to seek information regarding the status of, and threats to the subspecies. If

additional data become available in the future, the Service may reassess the listing priority for this subspecies or the need for listing.

References cited

A complete list of all references cited herein are available upon request from the Snake River Basin Office (see **ADDRESSES** section).

Author

The primary author of this document is Patricia C. Klahr (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: September 20, 1995.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 95-23975 Filed 9-26-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 656

[Docket No. 950915230-5230-01; I.D. 062895A]

RIN 0648-AH57

Atlantic Striped Bass Fishery; Change in Regulations for Exclusive Economic Zone

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS requests public comments on a proposed rule which would remove a Federal moratorium on the harvest or possession of Atlantic striped bass in the exclusive economic zone (EEZ), 3-200 nautical miles (5.6-370.6 km) offshore from Maine to Florida, and impose a minimum size limit of 28 inches (71.1 cm) (total length), for Atlantic striped bass possessed in or harvested from the EEZ. State regulations would apply to any striped bass being transported into a state's jurisdiction from the EEZ.

DATES: Written comments must be received on or before October 27, 1995.

ADDRESSES: Send comments on this proposed rule or supporting documents to Richard H. Schaefer, Director, Office of Fisheries Conservation and

Management, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the environmental assessment/regulatory impact review are available from the same address.

FOR FURTHER INFORMATION CONTACT: William T. Hogarth, 301-713-2339.

SUPPLEMENTARY INFORMATION:

Background

This proposed rule is promulgated under the Atlantic Striped Bass Conservation Act (Act), Public Law 100-589, reproduced at 16 U.S.C. 1851 note. Section 6 of the Act requires the Secretary of Commerce (Secretary) to promulgate regulations on fishing for Atlantic striped bass in the EEZ that the Secretary determines to be consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*); and necessary and appropriate to (1) ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a state; and (2) achieve conservation and management goals for the Atlantic striped bass resource. In developing the regulations, the Secretary is required to consult with the Atlantic States Marine Fisheries Commission (ASMFC), the appropriate Regional Fishery Management Councils (Councils), and each affected Federal, state and local government entity. The ASMFC, and the Mid Atlantic and New England Regional Fishery Management Councils have agreed that the moratorium should be removed.

The Atlantic striped bass occurs predominantly in internal state waters and the territorial sea. Historically, only about 7 percent of commercial landings have been taken seaward of 3 miles (5.6 km) from the coastline. Management responsibility for Atlantic striped bass in coastal waters resides primarily with the coastal states through the ASMFC's Interstate Fisheries Management Plan for Striped Bass (Striped Bass Plan). The Striped Bass Plan was adopted in 1981 by the coastal states from Maine through North Carolina in response to a severe decline in commercial landings and a decline in juvenile production in Maryland.

There have been five amendments to the Striped Bass Plan to respond to the changing condition of the stocks. Increasingly stricter state regulations were imposed by Amendments 1 through 3 to the Striped Bass Plan from 1981 through 1989. These regulations restricted further harvest of Atlantic striped bass by recreational and

commercial fisheries and allowed rebuilding of the stocks. Amendment 4 to the Striped Bass Plan, approved by ASMFC in October 1989, allowed for a limited increase in harvest beginning in 1990. In November 1990, a moratorium on the harvest and possession of striped bass in the EEZ was implemented under the Act, to support the ASMFC Striped Bass Plan.

Amendment 5, approved in March 1995, completely replaced the original Striped Bass Plan and all subsequent amendments and addenda. Even though the ASMFC declared the striped bass stocks restored as of January 1, 1995, with the exception of the Delaware river and the Roanoke/Albemarle sound stocks, Amendment 5 took a conservative approach and established a 2-year transition period during which the increase in harvest is limited to a fishing mortality (F) rate of 0.33, rather than a restored stock level of F = 0.40.

The Federal ban on the harvest and possession of striped bass in the EEZ is being re-examined in view of the ASMFC's declaration that striped bass have been restored and the ASMFC's regulations implementing Amendment 5 to the Striped Bass Plan.

Relevant Activities Pursuant to Section 6

In response to Section 6 of the Act, NMFS considered several regulatory options for the EEZ and consulted with the ASMFC, the New England and Mid-Atlantic Councils, and other affected Federal and state entities. There was no consensus view on what action NMFS should take. As a result, NMFS considered the following four options:

Option 1 - Open the EEZ with no harvest or possession restrictions on Atlantic striped bass.

Option 2 - Continue the prohibition on the harvest of Atlantic striped bass in the EEZ.

Option 3 - Apply state regulations to fish caught in the EEZ.

Option 4 - Promulgate specific Federal regulations on Atlantic striped bass fishing in the EEZ.

Discussion

The ASMFC has declared the Atlantic striped bass to be recovered and consequently increased the allowable harvest in Amendment 5. The allowable harvest is conservatively increased for the next 2 years (until 1997) as a precautionary measure to assure the continued rebuilding of the stocks. During this transitional fishery, an unrestricted harvest of Atlantic striped bass from the EEZ (option 1) would be contrary to the continued rebuilding of