

measurement in the effluent discharge, capital and operating costs of the combined treatment system, volume and fate of the sludge, TCLP and total metals analysis of the sludge if previously done, reclamation value of the sludge and the associated costs to Molex for the storage, transportation, and reclamation of the sludge, and (b) the segregated treatment system including descriptions of each wastewater treatment process, capital costs of the segregated treatment system, the proposed volume and fate of the sludge, and an estimate of the cost to transport and treat or dispose of the sludge as hazardous waste based on anticipated generation rate and transportation and treatment or disposal costs.

11. Quarterly reports in accordance with Attachment 2 shall be due on the last day of the month every three months after the initial report describing current data for the segregated treatment system including the actual daily average mass metals loading in the facility discharge and associated metal effluent concentrations including pH measurements; operating costs of the segregated treatment system; storage, recycling volume, and fate of the sludge; waste analysis of the sludge; and reclamation value of the sludge and the associated costs to Molex for the storage, transportation, and reclamation of the sludge.

12. Within 90 days of the end of this two year temporary variance, Molex shall provide a final report that: (a) provides an overview of the demonstration project; (b) incorporates the initial report and quarterly reports as appendices; (c) describes the technical aspects of the project; (d) describes and quantifies the environmental aspects of the project; (e) describes and quantifies the economic aspects of the project, including a comparison of the mass treatment system to the segregated treatment system and calculation of costs saved by this variance.

It Is Further Ordered that Molex shall at all times remain in compliance with its Pretreatment Permit #NE0131776 and comply with all other applicable requirements in Title 128 and Nebraska law.

It Is Further Ordered that this temporary variance shall expire two years from the date signed below. This temporary variance shall be subject to cancellation at any time for violation of any of the conditions and requirements identified in this temporary variance or refusal to conduct any additional waste analysis required pursuant to paragraph 5 above.

By The Director.

Randolph Wood,
Nebraska Department of Environmental
Quality.
[FR Doc. 97-29053 Filed 10-31-97; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period for Additional Information Relative to the Status of the Lesser Prairie-Chicken

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of public comment period

SUMMARY: On July 8, 1997, the U.S. Fish and Wildlife Service (Service) published a positive 90-day finding on a petition to list the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as threatened under the Endangered Species Act of 1973 (Act), as amended, and requested that any additional information be submitted by September 8, 1997. The Service has been asked by the Lesser Prairie-chicken Interstate Working Group to reopen the comment period to allow for submission of a conservation strategy for the lesser prairie-chicken.

Thus, the Service announces that it will reopen the comment period to allow additional time for submission of information regarding the status, population trend, distribution, and habitat use of the lesser prairie-chicken.

DATES: The comment period, which originally closed on September 8, 1997, is reopened and now closes on December 3, 1997. To be considered in the 12-month finding for this petition, additional information on the lesser prairie-chicken should be submitted to the Service by December 3, 1997.

ADDRESSES: Information, comments, or questions should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 222 S. Houston, Suite A, Tulsa, Oklahoma 74127-8909. 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: Jerry Brabander, Field Supervisor, at the above address, or telephone (918) 581-7458 ext. 224.

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*), requires that the Service make an initial finding within 90 days, if practicable, on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. A

petition to list the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as threatened was received by the Service on October 6, 1995, from the Biodiversity Legal Foundation, Boulder, Colorado, and Marie E. Morrissey. On July 8, 1997 (62 FR 36482), the Service published a 90-day finding on that petition. The finding stated that the petition contained substantial information to indicate that listing under the Act may be warranted, and announced that the Service would conduct a thorough status review of the species in conjunction with the affected states. In addition, the Service requested that any additional information on lesser prairie-chicken population abundance, population trends, distribution, and use of habitats be submitted to the Service by September 8, 1997.

On September 3, 1997, the Service received a request from the Lesser Prairie-chicken Interstate Working Group (Working Group) to extend or reopen the comment period to allow this group additional time to submit a Conservation Plan for the lesser prairie-chicken. The Working Group stated in their letter that they are currently editing the first draft of a conservation strategy that contains goals, objectives, and action items that will significantly reduce the threats to the species.

This notice reopens the comment period for submission of information on the status of the species throughout its range until December 3, 1997. The Service invites the public to submit additional information on the population abundance, population trends, distribution, use of habitats including native prairie and cropland, and factors documented to influence population abundance, distribution, and habitat use of lesser prairie-chickens.

Authors

This document was prepared by Noreen E. Walsh, at the Service's Oklahoma Ecological Services Field Office (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: October 28, 1997.

Thomas Bauer,

Acting Regional Director, Region 2, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

Docket No. 971021250-7250-01; I.D. 092297E

RIN 0648-AK46

Endangered Fish or Wildlife; Special Prohibitions; North Atlantic Right Whale Protection

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

ACTION: Proposed rule; temporary closure of fishery.

SUMMARY: NMFS proposes to close the Mid-Atlantic and Northeast Coastal segments of the Atlantic pelagic drift gillnet fishery for swordfish, tuna, and shark through July 31, 1998. The swordfish portion of the Atlantic pelagic drift gillnet fishery has been closed since December 5, 1996, under an emergency Magnuson-Stevens Fishery Conservation and Management Act closure which expires on November 26, 1997. This action is necessary to avoid jeopardy to the continued existence of the northern right whale (*Eubalaena glacialis*), a species listed as endangered under the Endangered Species Act (ESA). The purpose of this action is to continue the existing closure of the swordfish portion of the Atlantic pelagic drift gillnet fishery and to close the tuna and shark portions of the Atlantic pelagic drift gillnet fishery until regulatory measures implementing one or more reasonable and prudent alternatives necessary to avoid jeopardy to the continued existence of the northern right whale are completed and implemented.

DATES: Written comments must be received on or before November 18, 1997.

ADDRESSES: Send comments to the Chief, Marine Mammal Division (F/PR2), Office of Protected Resources (F/PR), NMFS, 1315 East West Highway, Silver Spring, MD 20910-3282. Copies of the May 29, 1997, Biological Opinion (BO), of the August 29, 1997, Amended BO, and, a draft environmental assessment on the Atlantic Offshore Cetacean Take Reduction Plan are

available upon request from Gregory Silber, Ph.D., Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT:

Gregory Silber, Ph.D. or Michael Payne, Office of Protected Resources, (F/PR2), NMFS, 1315 East West Highway, Silver Spring, MD 20910, 310-713-2322; or by facsimile at 301-713-0376.

SUPPLEMENTARY INFORMATION:

The Atlantic pelagic fishery (which includes the swordfish, tuna, and shark drift gillnet fishery) is managed by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires an agency to ensure that any action proposed by a Federal agency is not likely to jeopardize the continued existence of a threatened or endangered species. Due to new information concerning the status of the northern right whale, NMFS re-initiated consultation on the Atlantic pelagic fishery on September 25, 1996.

One right whale entanglement has been documented by a NMFS observer in Atlantic pelagic drift gillnet gear. The potential exists for further entanglements in this gear because the geographic distribution of right whales overlaps with that of the Atlantic drift gillnet fishery during part of the year. On December 5, 1996, NMFS published an emergency closure pursuant to the Magnuson-Stevens Act closing the drift gillnet fishery for swordfish in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, from December 1, 1996, through May 29, 1997 (61 FR 64486). In its December 5, 1996, notice, NMFS announced that it had reinitiated consultation under the ESA for the entire Atlantic pelagic fishery (which includes the drift gillnet fishery for swordfish, tuna, and shark).

On May 29, 1997, NMFS issued a BO which concluded that continued operation of the swordfish, tuna, and shark drift gillnet portions of the Atlantic pelagic fishery was likely to jeopardize the continued existence of the northern right whale. This BO identified two reasonable and prudent alternatives for the use of drift gillnet gear that would avoid the likelihood of jeopardy for the northern right whale. The first alternative is to prohibit the use of drift gillnet gear for the taking of pelagic swordfish, tuna, and shark. The second alternative is to allow the restricted use of drift gillnet gear. Under

this alternative, drift gillnet fishing for swordfish, tuna, and shark would take place under a limited entry system with 100 percent observer coverage, time/area closures, and elimination of the derby nature of the fishery during certain times of the year.

On June 5, 1997, pursuant to the Magnuson-Stevens Act, NMFS extended the closure of the swordfish portion of fishery until November 26, 1997, or until a preferred option to avoid the likelihood of jeopardy was identified and implemented (62 FR 30775).

Based on new information on the implementation of additional right whale management measures, consultation under section 7 of the ESA was again re-initiated on August 12, 1997. On August 29, 1997, NMFS issued an amended BO identifying a third reasonable and prudent alternative to avoid jeopardy to the northern right whale from the Atlantic pelagic drift gillnet fishery. The reasonable and prudent alternative would be 100 percent observer coverage with expanded time/area closures. The BO concluded that the distribution of right whales overlaps with that of the swordfish component of the drift gillnet fishery from November 1 until July 31 and that closure of the fishery during that period is likely to avoid jeopardy for northern right whales.

NMFS is now proposing to implement the time/area closure component of the reasonable and prudent alternatives developed through this consultation process. However, there is not sufficient time to implement the alternatives identified in the BO under the Magnuson-Stevens Act. As a result, NMFS is proposing to implement this measure under the ESA on a temporary basis pending full implementation of the reasonable and prudent alternative(s). This proposed temporary closure would provide necessary protections to the northern right whale while NMFS develops a long term fishery management solution in conformance with alternatives identified in the BOs for this fishery.

The BO issued on August 29, 1997, requires that the driftnet fishery for swordfish, shark, and tunas be prohibited from operating from November 1 to July 31 to avoid jeopardy to the continued existence of northern right whales. Although the final rule version of this document will not become effective until late November, NMFS has determined that the risk to right whales from drift gillnet gear from November 1, 1997, to the effective date of this rule is remote for the following