

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administration Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on December 14, 1999. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

If a public hearing is held, it will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of the meetings will be posted in advance at the locations listed above under **ADDRESSES**. A summary of meeting will be included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable

standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not produce a Federal mandate of \$100 million or greater in any year, *i.e.*, it is not a

“significant regulatory action” under the Unfunded Mandates Reform Act.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 18, 1999.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99-30883 Filed 11-26-99; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF57

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Reopening of Comment Period on the Proposed Rule To List the Scaleshell Mussel as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: We, the Fish and Wildlife Service, pursuant to the Endangered Species Act of 1973, as amended (Act), provide notice that we are holding a public hearing and reopening the comment period on the proposed rule to list the scaleshell mussel (*Leptodea leptodon*) as an endangered species. We invite all interested parties to submit comments on this proposal. The reopening of the comment period will further opportunity for all interested parties to submit comments on the proposal, which is available (see **ADDRESSES**).

DATES: The public hearing will be held from 7 PM to 10 PM on Wednesday, December 8, 1999, in Jefferson City, Missouri. The comment period is reopened on November 29, 1999, and will close on January 7, 2000. In the final decision on this proposal, we will consider any comments received by the closing date.

ADDRESSES: The public hearing will be held at the Runge Conservation Nature Center Auditorium located in Jefferson City, Missouri, approximately 0.5 miles north of Highway 50 on Highway 179. You may submit written comments and materials concerning the proposal at the hearing or send them directly to the Field Supervisor, U.S. Fish and Wildlife Service, 608 East Cherry Street, Room 200, Columbia, Missouri 65201-7712.

Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above U.S. Fish and Wildlife Service address.

FOR FURTHER INFORMATION CONTACT:

Andy Roberts (see **ADDRESSES** section), 573/876/1911, extension 110; facsimile 573/876/1914.

SUPPLEMENTARY INFORMATION:

Background

The scaleshell mussel (*Leptodea leptodon*) historically occurred in 13 states in the eastern United States. Currently, the species is known from a few scattered populations within the Mississippi River basin in Missouri, Oklahoma, and Arkansas. Scaleshell inhabits medium-sized to large rivers with stable channels and good water quality. The abundance and distribution of scaleshell has decreased from habitat loss and adverse effects associated with water quality degradation, reservoir construction, sedimentation, channelization, and dredging. These habitat changes have resulted in significant extirpations, restricted and fragmented distributions, and poor recruitment.

On August 13, 1999, we published a rule proposing endangered status for the scaleshell mussel in the **Federal Register** (64 FR 44171). Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*) requires that we hold a public hearing if it is requested within 45 days of the publication of the proposed rule. We received numerous requests for a hearing from the public within the allotted time. Public hearings are designed to gather relevant information that the public may have that we must consider in determining the status of and threats to this species. We invite the public to submit information and comments either at the hearing on December 8, 1999, or in writing on or before the close of business January 7, 2000.

The hearing will be at the Runge Conservation Nature Center, Jefferson City, Missouri on Wednesday, December 8, 1999, from 7:00 PM to 10:00 PM. An informal open forum will be held prior to the public hearing from 5:00 to 6:30 PM at the public hearing location. The purpose of the forum is to answer specific questions regarding the proposed rule. All interested parties are invited to attend. We encourage persons wishing to comment at the formal hearing to provide a written copy of their statement at the start of the hearing. Oral statements given at the formal hearing may be limited in length, if the number of parties who wish to

comment necessitates such a limitation. There is no limit on the length of written comments. Persons may also send written comments to our office (see **ADDRESSES** section) at any time during the open comment period. Equal consideration is given to oral and written comments. We are publishing legal notices announcing the date, time, and location of the hearing in newspapers, concurrently with this **Federal Register** notice. The comment period on the proposal initially closed on October 13, 1999. To accommodate the hearing, we are reopening the public comment period upon publication of this notice. The public comment period will close on January 7, 2000.

Author: The primary author of this notice is Andy Roberts (see **ADDRESSES** section).

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

Dated: November 8, 1999.

Charles M. Wooley,

Assistant Regional Director, Ecological Services.

[FR Doc. 99-29821 Filed 11-26-99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 991116306-9306-01; I.D. 102099C]

RIN 0648-XA40

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List Columbia River Eulachon (*Thaleichthys pacificus*) as Endangered or Threatened

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

ACTION: Notification of petition finding.

SUMMARY: NMFS has received a petition to list Columbia River populations of eulachon (*Thaleichthys pacificus*) as an endangered or threatened species and to designate critical habitat under the Endangered Species Act (ESA). NMFS determines that the petition does not present substantial evidence to warrant the listing of eulachon at this time.

ADDRESSES: Requests for copies of the petition and comments regarding Columbia River eulachon should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street,

Suite 500, Portland, OR 97232. The petition and supporting data are available for public inspection, by appointment, Monday through Friday at this address.

FOR FURTHER INFORMATION CONTACT:

Garth Griffin, NMFS, Northwest Region, 503/231-2005 or Marta Nammack, NMFS, Office of Protected Resources, 301/713-1401.

SUPPLEMENTARY INFORMATION:

Background and Analysis of Petition

Section 4 of the ESA contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce (Secretary) to add a species to or remove a species from the List of Endangered and Threatened Wildlife and to designate critical habitat. On July 16, 1999, the Secretary of Commerce (Secretary) received a petition from Mr. Sam Wright of Olympia, Washington, to list and designate critical habitat for Columbia River populations of eulachon (commonly called smelt or candlefish).

Section 4(b)(3)(A) of the Endangered Species Act (16 U.S.C. 1531-1544) requires that the NMFS make a finding 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. In determining whether substantial information exists for a petition to list a species, NMFS will take into account information submitted with, and referenced in, the petition and all other information readily available in NMFS' files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the *Federal Register*. If NMFS finds that a petition presents substantial information indicating that the requested action may be warranted, section 4(b)(3)(B) of the ESA requires NMFS to make a finding as to whether or not the petitioned action is warranted within 1 year of the receipt of the petition.

In evaluating a petitioned action, the Secretary considers several factors, including whether the petition contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species (50 CFR 424.14(b)(2)(ii)). In addition, the Secretary considers whether the petition provides information regarding the status of the species over all or a significant portion of its range (50 CFR 424.14(b)(2)(iii)).

Under the ESA, a listing determination can address a species,