

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[I.D.051800F]****Availability of a Draft Environmental Assessment/Finding of No Significant Impact and Receipt of an Application for an Incidental Take Permit (1255).**

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

ACTION: Notice of availability.

SUMMARY: NMFS has received an application for an incidental take permit (Permit) from the Oregon Department of Fish and Wildlife (ODFW) and the Washington Department of Fish and Wildlife (WDFW) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). As required by section 10 (a)(2)(B) of the ESA, ODFW and WDFW have also prepared a conservation plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed adult and juvenile salmonids associated with otherwise lawful sport and commercial fisheries on non-listed species in the lower and middle Columbia River and its tributaries in the Pacific Northwest. The duration of the proposed Permit and Plan is one year. The Permit application includes the proposed Plan submitted by ODFW and WDFW. NMFS also announces the availability of a draft Environmental Assessment (EA) for the Permit application. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to section 10(c) of the ESA.

DATES: Written comments from interested parties on the Permit application, Plan, and draft EA must be received at the appropriate address or fax number no later than 5:00pm Pacific standard time on June 29, 2000.

ADDRESSES: Written comments on the application, Plan, or draft EA should be sent to Enrique Patino, Sustainable Fisheries Division, F/NWR2, 7600 Sand point Way NE, Seattle, WA, 98115-0070. Comments may also be sent via fax to 206-526-6736. Comments will not be accepted if submitted via e-mail or the internet. Requests for copies of the Permit application, Plan, and draft EA should be directed to the

Sustainable Fisheries Division (SFD), F/NWR2, 7600 Sand point Way NE, Seattle, WA, 98115-0070. Comments received will also be available for public inspection, by appointment, during normal business hours by calling 206-526-4655.

FOR FURTHER INFORMATION CONTACT:

Enrique Patino, Seattle, WA (ph: 206-526-4655, fax: 206-526-6736, e-mail: Enrique.Patino@noaa.gov).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term "take" is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following species and evolutionarily significant units (ESU's) are included in the Plan and Permit application:

Fish

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Snake River (SnR) fall, threatened lower Columbia River (LCR).

Steelhead (*O. mykiss*): threatened SnR, endangered naturally produced and artificially propagated UCR, threatened middle Columbia River (MCR), threatened LCR, threatened Upper Willamette River (UWR).

Chum Salmon (*Oncorhynchus keta*): threatened Columbia River (CR).

To date, protective regulations for threatened LCR chinook salmon, threatened SnR, MCR, LCR, and UWR steelhead, and threatened CR chum salmon under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of an application requesting takes of these species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of threatened LCR chinook salmon, and/or threatened SnR, MCR, LCR and/or UWR steelhead. The initiation of a 30-day public comment period on the application, including its proposed takes of threatened LCR chinook salmon, and threatened SnR, MCR, and LCR steelhead does not presuppose the contents of the eventual protective regulations.

Background

Fall season fisheries in the Columbia River have been managed since 1996

under provisions of the 1996-1998 Management Agreement for Upper Columbia River Spring Chinook, Summer Chinook and Sockeye. The Management Agreement modified provisions of the CRFMP to include additional provisions for listed species. The CRFMP and thus the associated Management Agreement expired by their own terms on December 31, 1998, but were extended by agreement of the parties and court order through July 31, 1999. Since NMFS was a signatory party to the CRFMP, and approval of the CRFMP was a federal action subject to section 7 consultation, incidental take associated with the ODFW and WDFW fisheries was authorized in biological opinions issued on the CRFMP. NMFS has advised the states that, with the expiration of the CRFMP, and absent any subsequent agreement among the parties to *U.S. v. Oregon*, there is no longer a federal action that provides a nexus for section 7 consultation. Because the immediate prospects for reaching an agreement remain uncertain, ODFW and WDFW have applied for a one-year ESA section 10(a)(1)(B) permit for incidental takes of ESA-listed adult and juvenile salmonids associated with sport and commercial fisheries during the fall season 2000 on non-listed species in the lower and middle Columbia River and its tributaries in the Pacific Northwest.

Conservation Plan

The Conservation Plan prepared by ODFW and WDFW describes measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed anadromous salmonids associated with some or all of the following fisheries which are expected to occur during the fall season 2000 with approximate dates as specified:

Mainstem Commercial Salmon/Sturgeon Fisheries: mid-August through mid-September.

Fall Commercial Fishery—Select Areas: August through October.

Smelt Commercial Fishery/Test Fishery: December 1 through March 31.

Commercial anchovy and herring bait fishery: open year round.

Mainstem Salmon/Steelhead Recreational Fishery: August 1 through December 31.

Warmwater Recreational Fishery: open year round.

Columbia River Tributary Recreational Salmon and Steelhead Fisheries: August through December.

Select Area Recreational fisheries: open under permanent regulations for the entire year.

Sturgeon Recreational Fishery: open year-round

Steelhead Recreational Fishery—
Ringold: August 1 through December 31.

Sturgeon tagging stock assessment:
May through July.

Fall Selective Gear Test Fishery:
September through October.

Wanapum Tribe Subsistence Fishery :
September.

ESA-listed fish incidental mortalities associated with the ODFW and WDFW fishery programs are requested at levels specified in the Permit application. ODFW/WDFW are proposing to limit state in-river fisheries such that the incidental impacts on ESA-listed salmonids will be minimized. Eight alternatives for the ODFW and WDFW fisheries were provided in the Plan, including: (1) Historic baseline; (2) 1988 Columbia River Fish Management Plan; (3) 1996–1998 Management Agreement; (4) 1999 Management Agreement; (5) 1996–1999 actual impact rates; (6) equitable non-Indian and treaty Indian chinook allocation; (7) reasonable non-Indian fishery opportunity (selected alternative); and (8) No action.

Environmental Assessment/Finding of No Significant Impact

The EA package includes a draft EA and a draft Finding of No Significant Impact (FONSI) which concludes that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended. Three Federal action alternatives have been analyzed in the EA, including: (1) the no action alternative; (2) issue a permit without conditions; and (3) issue a permit with conditions.

This notice is provided pursuant to section 10(c) of the ESA and the NEPA regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed anadromous salmonids under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: May 24, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–13431 Filed 5–26–00; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000204026–0136–02; I.D. 121799A]

RIN 0648–AN48

Tautog; Interstate Fishery Management Plans; Cancellation of Moratorium

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

ACTION: Notice of determination of compliance; cancellation of moratorium.

SUMMARY: The Secretary of Commerce (Secretary) announces the cancellation of the Federal moratorium on fishing for tautog in the coastal waters of the State of Rhode Island that would have been implemented on June 15, 2000. The Secretary has canceled the moratorium as required by the Atlantic Coastal Fisheries Cooperative Management Act (Act), based on his determination that the State of Rhode Island is now in compliance with the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for tautog, after the Commission had notified the Secretary that it was withdrawing its determination of noncompliance.

DATES: Effective May 30, 2000.

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, NMFS, 301–427–2014.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2000, NMFS published a document in the **Federal Register** (FR) (65 FR 7508) announcing the Secretary's determination that the State of Rhode Island was not in compliance with the Commission's ISFMP for tautog for not implementing and enforcing the recreational bag limit contained in the ISFMP for tautog. In the document a moratorium was declared on fishing for tautog in Rhode Island state waters that would be made effective on June 15, 2000, if Rhode Island was not in compliance by June 1, 2000. Details were provided in the

February 15, 2000, FR document and are not repeated here.

The Act specifies that, if, after a moratorium is declared with respect to a State, the Secretary is notified by the Commission that it is withdrawing the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If the State is determined to be in compliance, the moratorium shall be terminated.

Activities Pursuant to the Act

On April 28, 2000, the Secretary received a letter from the Commission prepared pursuant to the Act. The Commission's letter stated that the State of Rhode Island had taken corrective action to comply with the Commission's ISFMP for tautog, and, therefore, the Commission was withdrawing its determination of noncompliance.

Cancellation of the Moratorium

Based on the Commission's April 28, 2000, letter, information received from the State of Rhode Island, and the Secretary's review of Rhode Island's revised regulations, which adopted a recreational bag limit of 3 tautog from May 1–October 14 annually, and 10 tautog from October 15–December 31 annually with a size limit of 16 inches total length, the Secretary concurs with the Commission's determination that Rhode Island is now in compliance with the Commission's ISFMP for tautog. This combination of measures is listed in Table 14 of the ISFMP for tautog as an acceptable means of achieving the required recreational harvest reduction. This combination achieves a 57-percent reduction whereas the ISFMP requires a 55-percent reduction. Therefore, the moratorium on fishing for these species in Rhode Island waters is canceled.

Dated: May 22, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–13373 Filed 5–26–00; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052200A]

International Whaling Commission; Meetings

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