

October 23, 1992, the Director of the Utah Division of Air Quality committed to review the emission limit (the 20% or feasible opacity level) for this source and to adopt a SIP revision, if appropriate, by March 1993. The source permit requirements will be modified through the permit review process (as approved by EPA and which includes a public hearing). The SIP limitations will be revised accordingly. The actions proposed in today's notice do not appear to be affected by the current emission limit for this source. However, review of the emission limit may, among other things, facilitate maintenance of the PM₁₀ NAAQS.

When the Utah PM₁₀ SIP was finalized, Method 202 had not been promulgated by EPA. Therefore, the absence of Method 202 is not a basis for disapproving any requirements or elements in the SIP submittal being acted on today. However, Method 202 is now available and should be specified in the future as appropriate in the SIP and in the stationary source permits. The State was aware of this potential requirement and did agree to address this in a future SIP revision. This issue was discussed during the public hearing process.

During the review of the November 15, 1991 submittal, EPA and the State identified typographical errors in the final printing of the SIP. The State has committed to correct these errors in a letter dated July 1, 1992. The typographical errors are:

(1) page 42 of the SIP, section 9.A.6.(2)(a), fifth line incorrectly references the monitor site in the UACR. It should reference appendix A, section 9 of the SIP. (2) page 52 of the SIP, third paragraph, sixth line, the " * * 1998 base year * * " should be " * * 1990 base year * * " (3) page 185, section 9 of the SIP, appendix A.2.2.RR, Condition 6, needs to be deleted, this condition applies to the Kennecott tailings pond, not the Salt Lake County Asphalt-Welby Pit.

III. Implications of Today's Action

The EPA is proposing to approve the plan revision submitted to EPA for the Utah and Salt Lake Counties, Utah, in a letter from the Governor dated November 15, 1991. Among other things, the State of Utah has demonstrated that the Utah and Salt Lake Counties PM₁₀ nonattainment areas will attain the PM-10 NAAQS by December 31, 1994. The Utah Air Quality Regulations have been revised numerous times since the early 1970's. The regulations have been renumbered and new requirements added. For that reason, EPA has proposed to replace, in

its entirety, the existing UACR with that which was also submitted on November 15, 1991.

EPA is also proposing to approve the State-wide SIP revisions (chapters 1-7 and 10-15) submitted in a letter dated October 15, 1992, by the Director, Utah Air Quality Division. The October 15, 1992 submittal was referenced in the Governor's original November 15, 1991 letter.

As noted, additional submittals for the initial moderate PM-10 nonattainment areas are due at later dates. The EPA will determine the adequacy of any such submittal (i.e., new source review, contingency measures) as appropriate.

IV. Request for Public Comments

The EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments received by February 16, 1993.

V. Executive Order 12291

The OMB has exempted this rule from the requirement of section 3 of Executive Order 12291.

VI. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over population of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.* 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, hydrocarbons, intergovernmental relations, nitrogen

dioxide, particulate matter, reporting and recordkeeping requirements, and sulfur dioxide.

Authority: 42 U.S.C. 7401-7671q.

Dated: December 7, 1992.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 92-30659 Filed 12-17-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD 88-079a]

RIN 2115-AD12

Commercial Fishing Industry Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking; extension of comment period.

SUMMARY: On October 27, 1992 the Coast Guard published in the *Federal Register* (57 FR 48670) a supplemental notice of proposed rulemaking for documented or state numbered uninspected fishing, fish processing, and fish tender vessels to implement provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. Because of requests for additional time to comment on the proposed rulemaking, the comment period is being extended for an additional 60 days. Also, a toll free telephone number will be established at Coast Guard Headquarters that will allow the public another avenue to provide the Coast Guard with comments.

DATES: Comments must be received on or before February 28, 1993.

ADDRESSES: Written comments may be mailed to the Executive Secretary, Marine Safety Council (C-LRA-2/3406) (CGD 88-079a), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments via the toll free (1-800-282-8724) number may be called in 24 hours a day, seven days a week. The telephone number is (202) 267-1477 for further information about submitting written comments. For further information concerning phone comments, contact LCDR Tim Skuby, (202) 267-2307.

The Executive Secretary maintains the public docket for this rulemaking.

Written comments and synopsized transcripts of verbal comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters. Original recordings of telephone comments may be listened to at this address with advance request to do so.

FOR FURTHER INFORMATION CONTACT: LCDR Tim Skuby, Merchant Vessel Inspection and Documentation Division, Fishing Vessel/Offshore Activities Branch (G-MVI-4), room 1405, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-2307.

SUPPLEMENTARY INFORMATION:

Request for Comments

In the supplemental notice of proposed rulemaking (SNPRM) published on October 27, 1992, the Coast Guard encouraged interested persons to participate in this proposed rulemaking by submitting written comments including views, data, or arguments. Several persons requested additional time to comment citing the reason that the SNPRM will have a potentially major impact on a large segment of the fishing industry and that with the holiday season approaching, it would be difficult for them to study these proposed regulations and provide responsible feedback. Further, the Coast Guard has determined that a 60 day comment period may have been insufficient for industry publications to notify their readers of the opportunity to comment on the proposed rule in time for them to do so.

Additionally, the Coast Guard is establishing a toll free number at Coast Guard Headquarters that will allow the public another avenue to provide comments. The toll free number is 1-800-262-8724 and will be on line beginning December 28, 1992. This number will be unattended. A prerecorded message will greet the caller. Comments received using this number will be considered along with the written comments. In addition, use of this number to provide verbal comments will constitute specific permission from the caller to record the phone call.

The Coast Guard does not agree that there is a need to provide the public hearings for this rulemaking. It is the Coast Guard's position that the holding of public hearings will not measurably benefit this rulemaking.

The Coast Guard held 13 public hearings prior to the publication of a final rule (CGD 88-079) implementing other provisions of the Commercial

fishing Industry Vessel Safety Act of 1988 in the Federal Register on August 14, 1991 (56 FR 40364). As a result of these public hearings and the written comments, three topics (stability for fishing vessels less than 79 feet in length, survival craft for fishing vessels carrying less than four individuals on board operating within 12 miles of the coastline, and the administration of exemptions) were separated from that final rule. This SNPRM is the direct result of written and verbal comments previously provided on the subject of stability for fishing vessels less than 79 feet in length, and they have been incorporated into this proposed rulemaking. By extending the comment period an additional 60 days, for a total of 120 days, and by establishing the toll free number, the Coast Guard has determined that ample opportunity to comment on these proposed regulations is provided.

Persons submitting comments, whether written or verbal, should include their name and address, identify this rulemaking (CGD 88-079a) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgement of receipt of written comments should enclose a stamped self-addressed postcard or envelope. For those persons using the toll free number, a request for acknowledgment of receipt of their verbal comments should be made during the phone call.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

Dated: December 10, 1992.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief,
Office of Marine Safety, Security and
Environmental Protection.

[FR Doc. 92-30568 Filed 12-17-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB83

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing on Proposal To List the Delhi Sands Flower-Loving Fly as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), gives notice that a public hearing will be held on the proposed rule to list the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) as an endangered species. The hearing will be held on January 5, 1993, in San Bernardino, California. Interested parties may submit oral or written comments on the proposal to the Service at the hearing. The proposed rule was published on November 19, 1992 (57 FR 54547).

DATES: A public hearing will be held from 6 p.m. to 8 p.m. on Tuesday, January 5, 1993, in San Bernardino, California. Comments from all interested parties must be received by January 19, 1993. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The hearing on Tuesday, January 5, 1993, will be held at the San Bernardino County Government Center, Board Chambers, 385 N. Arrowhead Avenue, San Bernardino, California. Written comments and materials may be submitted at the hearing or may be sent directly to Mr. Jeffrey Opdycke, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Field Office, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Jeffrey Opdycke, Field Supervisor, at the address listed above (telephone 619/431-9440).

SUPPLEMENTARY INFORMATION:

Background

The Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) is a large insect that is restricted to areas of the Delhi Sands formation, within an 8 mile radius in southwestern San Bernardino and northwestern Riverside Counties, California. Agricultural land conversions during the 1800's destroyed most of the Delhi Sands flower-loving fly's habitat. Intensive urban, residential, and commercial development, removal of vegetation for fire control, invasion of exotic vegetation, illegal dumping, and off-road vehicle use threaten the species' survival at present. Since 1975, 50 percent of the species' habitat has been destroyed. In the fall of 1990, only six extant colonies remained. Since then, two colonies have been destroyed and

one colony was bisected and reduced in size.

On November 19, 1992, the Delhi Sands flower-loving fly was proposed for listing as an endangered species (57 FR 54547). Section 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of publication of a proposed rule.

Because of the level of interest in this proposed action, and in anticipation of requests for a hearing on the proposal, the Service has scheduled a public hearing at the following time and location:

Tuesday, January 5, 1993, from 6 p.m. to 8 p.m.: San Bernardino County Government Center, Board Chambers, 385 N. Arrowhead Avenue, San Bernardino, California.

Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments will be given the same weight as oral comments. Written comments may be submitted at the hearing or mailed to the Carlsbad, California address given in the ADDRESSES section of this notice. The comment period closes on January 19, 1993.

Author

The primary author of this notice is Mr. John Hanlon, Fish and Wildlife Biologist, Carlsbad Field Office (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.).

List of Subjects in 50 CFR Part 17

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

Dated: December 11, 1992.

William E. Martin,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 92-30633 Filed 12-17-92; 8:45 am]

BILLING CODE 4310-66-M

50 CFR Part 17

RIN 1018-AA98

Endangered and Threatened Wildlife and Plants; Notice Reopening the Public Comment Period for the Bruneau Hot Spring Snail (*Pyrgulopsis bruneauensis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Fish and Wildlife Service (Service) is reopening the comment period on the proposal to add the Bruneau Hot Spring snail (*Pyrgulopsis bruneauensis*) to the list of endangered wildlife. The Bruneau Hot Spring snail is endemic to the complex of related thermal springs adjacent to the Bruneau River south of Mountain Home, Idaho. The major threat to this species is habitat loss due to the drastic and continuing reduction in thermal spring flows from groundwater withdrawal/mining in the Bruneau Hot Spring aquifer. The Service proposed the snail for listing as endangered on August 21, 1985 (50 FR 33803). During four public comment periods and two public hearings following the proposed rule, the Service received new information that questioned the distribution, population status, and impacts of present threats. In addition, there was substantial disagreement regarding the sufficiency or accuracy of the available data used to prepare the proposed rule. Following this period, the U.S. Congress appropriated funds to: (1) Implement a tentative draft management plan developed by the Service and five cooperating agencies: Bureau of Land Management, U.S. Geological Survey, Farmers Home Administration, Idaho Department of Fish and Game, and Idaho Department of Water Resources; (2) further study the species' current status and distribution; and (3) study hydrological conditions and groundwater withdrawal in the Bruneau River basin. A final decision concerning the proposed rule has not been published. On July 6, 1992, the Land and Water Fund of the Rockies, representing the Idaho Conservation League and the Committee for Idaho's High Desert, filed suit in Federal district court in Boise, Idaho. The suit was filed under the Endangered Species Act of 1973, as amended, over the Service's failure to make a final decision on the proposed listing of the Bruneau Hot Spring snail. Because of the concerns raised in the lawsuit and to ensure the accuracy of any final decision concerning the appropriateness of

listing, the Service reopened the public comment period on October 5, 1992, for 30 days to solicit any additional new information available for consideration. However, after the comment period closed on November 4, 1992, the Service published a notice in the Idaho Statesman announcing that the comment period had reopened. In response to this newspaper notice, several individuals expressed an interest in submitting comments; however, the Service could not officially consider those comments since the public comment period had closed. For this reason, the Service reopens the public comment period on the proposed rule for 10 days. The Service's goal is to base its final decision on the best available scientific and commercial information.

DATES: The comment period on the proposal is reopened until December 28, 1992.

ADDRESSES: Written comments and materials should be sent to Charles Lobdell, Field Supervisor, Boise Field Office, Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Boise Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Duke, Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705, (208) 334-1931.

SUPPLEMENTARY INFORMATION: Background

The first collections of the Bruneau Hot Spring snail were made in 1952 and 1953. Dr. Dwight Taylor studied the anatomy of the species and determined that it represented a previously unknown genus and species of the snail family Hydrobiidae. Dr. R. Hershler (1990) formally described this species, naming it *Pyrgulopsis bruneauensis*. The thin, transparent shell of the species is less than 3.00 mm (1/10 inch) in height, with 3.75 to 4.25 whorls and roughly globose to low-conic in shape.

Based on the most recent information, the species is found in over 100 small thermal springs and seeps along an 8 km length of the Bruneau River in southwestern Idaho (Mladenka 1992). No Bruneau Hot Spring snails have been collected outside thermal plumes of hot springs entering the Bruneau River. The species is normally collected in springs with seasonally fluctuating water temperatures greater than 20°C, with the maximum temperature tolerance limit of 35°C. The species is found in these

habitats on all substrate types, including rocks, gravel, mud, silt, and algal film. These springs and proximal thermal outflows are on lands administered by the Bureau of Land Management. Some downstream habitat is on private land.

The major threat to the Bruneau Hot Spring snail is the reduction of its thermal spring habitats from groundwater withdrawal/mining in the Bruneau Hot Spring aquifer. Exacerbated by drought, the extent of seepage at spring sources has been greatly reduced in recent years. In addition, considerable habitat has been lost in recent years due to sedimentation from flash flooding. This is especially true for the Indian Bathtub area, where the snail was first discovered. Heavy sedimentation of gravel, sand, and silt has rendered a considerable amount of habitat in the Indian Bathtub unavailable to snails.

Dr. Dwight Taylor prepared a status report on the Bruneau Hot Spring snail, which was submitted to the Service in June 1982. This report was the basis for the placement of this species on the Service's comprehensive notice of review on invertebrate candidate species published in the *Federal Register* (49 FR 21664) on May 24, 1984. The Service proposed the Bruneau Hot Spring snail for listing as endangered on August 21, 1985 (50 FR 33803). The comment period on this proposal, which originally closed on October 21, 1985, was extended to December 31, 1985 (50 FR 45443). To accommodate public hearings in Boise, Idaho, and Bruneau, Idaho, the comment period was reopened until February 1, 1986 (50 FR 51894). On December 30, 1986, the public comment period was again reopened until February 6, 1987, to accommodate the receipt of additional information (52 FR 47033).

In 1990, Congress allocated approximately \$400,000 for conservation measures associated with the Bruneau Hot Spring snail. This money was used to fund hydrological studies of the Bruneau Hot Spring aquifer by the U.S. Geological Survey and ecological life history studies by the Idaho State University.

The Service provided funding to implement a short-term conservation easement with Owen Ranches, Inc., owners of much of the snail habitat in Hot Creek and the Indian Bathtub. Terms of the easement included fencing to exclude cattle from grazing along snail habitats in Hot Creek. Expiration of this agreement will coincide with the completion of the hydrological studies by the U.S. Geological Survey.

On July 6, 1992, the Idaho Conservation League and the Committee

for Idaho's High Desert filed a lawsuit in Federal District Court in Boise, Idaho. The lawsuit was filed under the Endangered Species Act of 1973, as amended, over the failure of the Service to make a decision regarding the listing of the Bruneau Hot Spring snail.

In order to respond to the concerns raised in the lawsuit and to ensure the accuracy of any final decision concerning the appropriateness of listing, the Service reopened the public comment period on October 5, 1992, for 30 days to solicit any additional new information available for consideration. However, after the comment period closed on November 4, 1992, the Service published a notice in the *Idaho Statesman* announcing that the comment period was open. In response to this newspaper notice, several individuals expressed an interest in submitting comments; however, the Service could not officially consider those comments since the public comment period had closed. For this reason, the Service reopens the public comment period on the proposed rule for 10 days. The Service's goal is to base its final decision on the best available scientific and commercial information. Written comments may now be submitted for this proposal until December 28, 1992. The Service continues to be particularly interested in comments concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;
- (2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Endangered Species Act;
- (3) Additional information concerning the range, distribution, and population size of this species; and
- (4) Current or planned activities in the subject area and their possible impacts on this species.

The final decision on this issue will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final decision that differs from the proposal to list the species. Comments and data concerning this species should be sent to the Boise Field Office (see ADDRESSES section).

References

- Hershler, R. 1990. *Pyrgulopsis bruneauensis*, a new springsnail (Gastropoda: Hydrobiidae) from the Snake River plain, southern Idaho. *Proc. Biol. Soc. Wash.* 103(4), 1990, pp. 803-814.
- Mladenka, G.C. 1992. The ecological life history of the Bruneau Hot Spring snail

(*Pyrgulopsis bruneauensis*). Final report submitted to the Fish and Wildlife Service, Stream Ecology Center, Department of Biological Sciences, Idaho State University, Pocatello, Idaho. 116 pp.

Author

The primary author of this notice is Mr. Stephen Duke, Fish and Wildlife Service, Boise Field Office, 4696 Overland Road, Room 576, Boise, Idaho 83705, (208) 334-1931.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1361-1407; 18 U.S.C. 1531-1544; 18 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted).

List of Subjects in 50 CFR Part 17

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

Dated: December 11, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92-30664 Filed 12-17-92; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB73

Endangered and Threatened Wildlife and Plants; Notice of Reopening of Public Comment Period on Proposed Endangered Status for the Giant Garter Snake

AGENCY: Fish and Wildlife Service, Interior.

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

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), gives notice that the public comment period is reopened on the proposed determination of endangered status for the giant garter snake (*Thamnophis gigas*). The reopening of the comment period will allow all interested parties to submit written comments on the proposal.

DATES: The comment period on the proposal is opened until December 28, 1992. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Written comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1803, Sacramento, California 95825-1846. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:
Peter Sorensen (see ADDRESSES) at 916/
978-4866.

SUPPLEMENTARY INFORMATION:

Background

The giant garter snake is restricted to valley floor wetlands, including low gradient streams, ponds, irrigation and drainage canals, and certain rice field habitats in the San Joaquin and Sacramento Valleys of California. Approximately 13 apparently isolated populations are distributed locally from Burrell, Fresno County, northward to the vicinity of Chico, Butte County. The giant garter snake is threatened by a variety of factors, including urbanization, flood control and water diversion projects, and agricultural practices.

A proposal to list the giant garter snake as an endangered species was published on December 27, 1991 at 56 FR 67046. Subsequently, the Service published a notice announcing a public hearing on May 15, 1992 (57 FR 20806) and a separate notice on May 26, 1992 (57 FR 21933) reopening the public comment period until July 15, 1992. The Service conducted the public hearing on June 1, 1992, at the Radisson Hotel in Sacramento, California. Testimony was taken from 6 p.m. to 8 p.m. The Service is aware of information on the status of the giant garter snake that has become available since that time. Reopening the comment period will allow the Service to consider this and any other information in determining whether or not the giant garter snake warrants listing as an endangered species. Additional information may now be submitted until the end of the comment period on December 28, 1992.

Author

The primary author of this notice is Peter C. Sorensen (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted).

List of Subjects in 50 CFR Part 17

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

Dated: December 11, 1992.

Richard N. Smith,
Acting Director, U.S. Fish and Wildlife
Service.

[FR Doc. 92-30665 Filed 12-17-92; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric
Administration**

50 CFR Part 222

[Docket No. 921077-2277]

**Endangered and Threatened Species;
Saimaa Seal**

AGENCY: National Marine Fisheries
Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: Based on a review of the status of the Saimaa seal (*Phoca hispida saimensis*), NMFS has determined that this species is endangered and should be added to the U.S. List of Endangered and Threatened Wildlife. NMFS used the best available scientific and commercial data to make this determination. Scientists estimate the population at about 160-180, and they are found only in Lake Saimaa, in eastern Finland.

DATES: Comments on the proposed rule should be received by February 16, 1993.

ADDRESSES: Send comments to Dr. Michael F. Tillman, Acting Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT:
Dean Wilkinson, Office of Protected
Resources, NMFS, at 301/713-2322.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (16 U.S.C. 1531, *et seq.*; (ESA)) is administered jointly by the U.S. Fish and Wildlife Service (USFWS), the Department of the Interior, and NMFS. NMFS has jurisdiction over most marine species and makes determinations under section 4(a) of the ESA (Pub. L. 93-205) as to whether the species should be listed as endangered or threatened. The USFWS maintains and publishes the List of Endangered and Threatened Wildlife in 50 CFR part 17 for all species determined by NMFS or USFWS to be endangered or threatened. A list of threatened and endangered species under the jurisdiction of NMFS also is contained in 50 CFR 227.4 and 222.23(a), respectively.

The ESA defines "species" to include any subspecies of fish, wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.

Summary of Status Review

The Saimaa seal (*Phoca hispida saimensis*) is a subspecies of the ringed seal (*Phoca hispida*) that is limited in distribution to the freshwater Lake Saimaa in eastern Finland. It has been separated from other ringed seals since the last glacial period, 8,000 years ago (Sipilä *et al.* 1990).

There are differences between the Saimaa seal and other ringed seals. In general, the pelage of the Saimaa seal is darker than ringed seals from Lake Ladoga and the Baltic Sea. Saimaa seal pups are gray, rather than white, indicating that camouflage may be less important. Morphologically, the Saimaa seal can be distinguished from other ringed seals. Measurements of bones in the skull differ from both the ringed seal in the Baltic Sea and the Ladoga seal, another subspecies of the ringed seal. The auditory bulla are higher, indicating a possible adaptation to the low visibility conditions in Lake Saimaa (Hyvärinen 1989; Hyvärinen and Vieminen 1990). There is evidence that the seals' sense of hearing has been adapted to these conditions. The Saimaa seal's vibrissae, or whiskers, may be used to detect sounds. The innervation of one vibrissa of the Saimaa seal is more than ten times greater than in any other mammal or any other ringed seal. It is hypothesized that sounds are detected through sensory elements in the vibrissae (Hyvärinen 1989).

There are only about 160-180 Saimaa seals (Sipilä 1990, 1991; Sipilä *et al.* 1990). Concern over the status of the population was first expressed in the early 1950s when the Government of Finland prohibited hunting of the seals (Sipilä and Hyvärinen 1988). The first estimate of total population was 200-250 animals, based on a limited sample area. A more comprehensive survey produced an estimate of at least 250 animals in 1971. Between 1971 and 1984, the number continued to decrease. A census conducted in 1984 produced a best estimate of 130-160 seals (Hyvärinen and Sipilä 1983; Sipilä 1990; Sipilä and Hyvärinen 1988; Sipilä *et al.* 1990). Since then, numbers have remained relatively stable. The most vigorous populations are in the central part of Lake Saimaa, both north and south of the town of Savonlinna. The northern part of Lake Saimaa has a smaller population. There has been a marked decline of the population in the

southern part of the lake. As an example, in 1971, it was estimated that the number of seals in the Petranselkä-Ilkonselkä area was 44–46. The corresponding estimate for 1984 was 14–16. In other areas in the south where seals were present historically, such as Puruvesi and Yövesi, none remain (Sipilä *et al.* 1990). Although studies of migrations between areas of the lake have not been conducted, one study indicated that there are four distinct colonies (Hyvärinen and Sipilä 1984a). The possibility of limited genetic exchange among subpopulations raises further concerns over the status of the seals in the northern and southern parts of the lake.

Although no data are available on the longevity of the Saimaa seal, the life-span for ringed seals generally is estimated at 15 to 25 years (Riedman 1990). Similar to other ringed seals, the sex ratio of the Saimaa seals is 1:1 (Sipilä *et al.* 1990; Sipilä 1991). One study estimated that 55.7 percent of the population is sexually mature. The same study provided an estimate of approximately 39 reproductive females in the population. The pregnancy rate in mature females has been estimated at up to 70 percent per annum (Sipilä *et al.* 1990). The number of births has been estimated at 18–26 pups annually. Examinations of birth lairs indicated that 19 percent of the pups born were still-born or died before weaning.

The overall reproductive rate for the population is estimated at 15 percent annually, which is low when compared to other populations of ringed seals (Sipilä and Kurlin 1991; Sipilä *et al.* 1990).

The Government of Finland has taken measures to protect the species. In 1955, a law was passed to prohibit the hunting of Saimaa seals (Sipilä and Hyvärinen 1988). In 1982, another law was passed to restrict fishing in some areas during periods when interactions were occurring with seal pups. Before the fishing restrictions, entanglement in fishing gear was a significant cause of pup mortality (Sipilä *et al.* 1990). Of eight breeding areas, the Government of Finland has protected three by creating natural parks (Sipilä 1989).

It is thought that a listing action in the United States would make it easier to obtain international funds to promote conservation of the species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the ESA and the NMFS listing regulations set forth procedures for listing species. The Secretary of Commerce must determine, through the regulatory process, if a

species is endangered or threatened based upon any one or a combination of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, recreational, scientific, or educational purposes;
- (3) Disease or predation;
- (4) Inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man-made factors affecting its continued existence.

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Housing developments have affected the habitat of the Saimaa seal. Construction of summer cottages and increased human activity have caused the seals to abandon some breeding areas (Sipilä 1989, 1991; Sipilä and Hyvärinen 1988).

Additionally, drawing down of water levels of up to 50 centimeters for hydroelectric generation has affected habitat and breeding success (Sipilä 1990). Birth lairs are constructed in the ice and rest along the shoreline. When water levels are reduced, there is a tendency for the birth lairs to collapse, crushing the pups or rendering them homeless with no protection from the cold (Sipilä 1988, 1990; Sipilä and Hyvärinen 1988).

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

There is no evidence that these activities have contributed to the decline of the species.

Disease or Predation

No evidence exists that disease or predation has been responsible for the decline in population. With such a small number of animals, however, the population could be vulnerable to the introduction of a disease. As an example of the potential vulnerability to disease, the introduction of phocine distemper virus into seal populations in Lake Baikal and the North Sea resulted in massive mortalities (Osterhaus *et al.* 1990). A similar outbreak could lead to the extinction of the Saimaa seal.

The Inadequacy of Existing Regulatory Mechanisms

The Government of Finland has taken measures to protect the Saimaa seal. In 1955, a law was passed to prevent direct hunting of the species (Sipilä and Hyvärinen 1988). In 1981, a law was passed to stop net-fishing in some areas of Lake Saimaa (Sipilä 1990; Sipilä *et al.*

1990). However, not all areas of the lake are protected. Natural parks have been set up to ensure the safety of the seals in some areas (Sipilä 1989). Despite these measures, the population of seals has continued to decrease in some areas.

Other Natural or Man-made Factors

As discussed earlier, the generation of hydroelectricity has had an impact on the Saimaa seal. Although there are restrictions against fishing in some areas in Lake Saimaa, net fishing has caused the Saimaa seal's population to decline (Hyvärinen and Sipilä 1984a; Sipilä 1989; Sipilä and Hyvärinen 1988; Sipilä *et al.* 1990). Seal pups are particularly vulnerable to fishery interactions after they have been weaned. Before fishing restrictions were imposed in 1981, mortality of pups caused by fishing interactions was estimated to be as high as 60 percent. Restrictions appear to have reduced this figure to 40 percent in those areas with restrictions. However, even that percentage represents a significant cause of mortality (Sipilä *et al.* 1990).

The genetic pool is so small that there is a serious possibility that inbreeding could result in a loss of genetic variability, resulting in the loss of capacity to adapt to changes or in genetic defects. This problem would be exacerbated if there is site fidelity and limited genetic flow between subpopulations.

Some researchers have indicated that pollution may have an impact on the population (Helle *et al.* 1985; Hyvärinen and Sipilä 1984b; Kari and Kauranen 1978; Perttilä *et al.* 1986; Sipilä and Hyvärinen 1988). However, no direct cause and effect relationship has been established. Analyses have shown that Saimaa seal tissues have relatively high levels of heavy metals such as nickel, zinc, copper, lead, and cadmium (Hyvärinen and Sipilä 1984b; Perttilä *et al.* 1986). High levels of nickel have been found in the natal hair of seal pups. High levels of nickel may be linked to the still-births of the pups (Hyvärinen and Sipilä 1984b). One study indicated high mercury and selenium levels in the seal's liver tissue. Other studies have linked mercury and selenium and it has been suggested that selenium serves a role in metabolizing mercury in seals (Kari and Kauranen 1978; Perttilä *et al.* 1986). The ratio of selenium to mercury in Saimaa seals, however, is lower than in other seals from the Baltic area, which may indicate that mercury levels may be cause for concern (Kari and Kauranen 1978).

Although levels of organochlorines in tissue are relatively high, they are lower than levels recorded in ringed seals in

the Baltic. Studies have shown a high correlation between PCBs and reproductive abnormalities in seal population in the Baltic Sea and the North Sea. A high level of uterine occlusions was found in ringed seals with high PCBs in the Baltic Sea (Helle 1980). A reduction in fertility of harbor seals in the North Sea is correlated with PCB levels (Reijnders 1984, 1986). The author hypothesized that the contaminant might affect fertility by altering hormonal levels (Reijnders 1986). Although levels of DDT in Saimaa seal blubber have fallen since the early 1970s, levels of PCBs have remained relatively constant (Helle et al. 1983, 1985; Perttälä 1986).

Proposed Determination

NMFS believes that the available data support the proposed endangered classification for the Saimaa seal. NMFS has determined that it is likely that this condition is caused by a combination of the factors specified under section 4(a)(1) of the ESA.

Recommended Critical Habitat

Regulations regarding listing of species and designation of critical habitat (50 CFR 424.12(h)), specify that critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction.

Classification

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 829 (6th cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413; February 6, 1984).

As noted in the Conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of E.O. 12291 and the Regulatory Flexibility Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of E.O. 12612. For this reason, the provisions in this rule are not subject to the moratorium on regulatory actions in accordance with

paragraph 4 of the President's January 28, 1992, Directive.

The proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

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List of Subjects in 50 CFR Part 222

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

Dated: December 10, 1992.

Nancy Foster,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 222 is proposed to be amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531-1543.

§ 222.23 [Amended]

2. In § 222.23, paragraph (a), introductory text, is amended by adding the phrase "Saimaa seal (*Phoca hispida saimensis*)," immediately after the phrase "Mediterranean monk seal (*Monachus monachus*);" in the second sentence.

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Notices

Federal Register

Vol. 57, No. 244

Friday, December 18, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-168-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality

of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit number listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set

forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92-244-02, renewal of permit 92-066-01, issued on 06-04-92.	Holden's Foundation Seeds, Incorporated.	08-31-92	Corn plants genetically engineered to express a phosphinothricin acetyl transferase (PAT) gene for tolerance to the herbicide glufosinate.	Hawaii.
92-203-01	Pioneer Hi-Bred International, Incorporated.	10-16-92	Soybean plants genetically engineered to express either the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate; or methionine- and cysteine-rich seed storage proteins from Brazil nut.	Puerto Rico.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions

of NEPA (40 CFR parts 1500-1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 14th day of December 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

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