and alert them to approach with caution if the description does not match the vessel they are planning to board.

However, the Coast Guard lacks detailed information about the anticipated costs and benefits of the expanded HIN format. Also, we still believe that, if an expanded HIN format, consisting of vessel-specific characters and a check digit, is adopted, the Coast Guard should be allowed to except manufacturers that are small business entities, and manufacturers of high-volume, low-cost vessels to minimize costs and information collection burdens.

Federal agencies with regulatory programs are subject to regulations implementing the Paperwork Reduction Act which are enforced by the Office of Management and Budget (OMB). The intent of the Act is to ensure that the Federal Government imposes only the minimum burden on the public in collecting information and requiring the maintenance of records, and that the information collected or maintained is necessary and useful. A regulation requiring manufacturers to display labels, such as HIN's, is an example of a collection of information requirement.

The Coast Guard encourages you to comment on: (1) The expected benefits and costs of an expanded Hull Identification Number with vessel-specific characters and a check digit; (2) the manner in which the Coast Guard should except small entities and the builders of high-volume, low-cost vessels, such as canoes, kayaks, and inflatables; (3) the estimated collection of information burdens to boat manufacturers if the current 12-character HIN regulation were revised to require additional vessel-specific characters and a check digit; and (4) possible alternatives to an expanded HIN.

Data is needed to support a decision-making process. Therefore we particularly need your help in answering any of the following questions (please provide arguments or data to support each answer):

1. What are the expected benefits if the HIN on a vessel included vessel-specific characters (e.g. vessel length, hull material, means of propulsion, boat type, and check digit)?

2. What are the estimated numbers of thefts that might be prevented?

3. What are the estimated numbers of additional lost or stolen vessels that might be recovered?

4. What is the estimated value of insurance company losses that might be prevented?

5. What are the estimated numbers of fraud attempts that might be prevented?

6. What are the estimated reductions in investigatory expenditures?

7. What are the expected benefits from improved accident data analyses?

8. How long will it take and what will it cost to determine a 17-character HIN?

9. How long will it take and what will it cost to affix a 17-character HIN to the hull of a vessel?

10. What are the measurable resources such as labor and capital that you would include in a cost-benefit analysis of a 17-character HIN implementation?

11. Should the Coast Guard consider excepting all builders of non-powered vessels?

12. Should the Coast Guard consider excepting manufacturers of boats that sell for less than a certain dollar value?

13. What alternatives are available that would reduce adverse impacts on small entities and builders of high-volume, low-cost vessels?

14. Should the Coast Guard consider a phase-in period for compliance with a 17-character HIN regulation? What time frame would be appropriate?

15. What are effective alternatives to a 17-character HIN? Examples could include the following:

a. Leave the current 12-character HIN as is.

b. Implement the Vessel Identification System in lieu of implementing a 17-character HIN.

c. Develop a regulation requiring uniform State titling/registration policies.

d. Develop a regulation requiring a uniform method to affix the HIN that would reduce the likelihood of tampering.

e. Increase security around shore and harbor facilities (more officers, tracking/monitoring devices).

f. Require other security measures during vessel construction, such as barcode HINs, radio frequency identification tags, etc.

Dated: March 7, 2008.

James A. Watson,

Rear Admiral (Lower Half), U.S. Coast Guard, Director of Prevention Policy.

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BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 080229341–8367–01]

RIN 0648–XF89

Listing Endangered and Threatened Species and Designating Critical Habitat: Notice of Finding on a Petition to List Five Rockfish Species in Puget Sound (Washington) as Endangered or Threatened Species Under the Endangered Species Act

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

ACTION: Notice of finding; request for information, and initiation of status review.

SUMMARY: On October 29, 2007, we, NMFS, received new information and a request to reconsider our ''not warranted'' finding on a petition submitted in April 2007 to list bocaccio (*Sebastes paucispinis*), canary rockfish (*S. pinniger*), yelloweye rockfish (*S. ruberrimus*), greenstripe rockfish (*S. elongatus*) and redstripe rockfish (*S. proriger*) in Puget Sound (Washington) as endangered or threatened species under the Endangered Species Act (ESA). We consider this a new petition and find that this new petition presents substantial scientific or commercial information indicating that the petitioned actions may be warranted. Accordingly, we are initiating a status review of these five rockfish species. To ensure that the status review is complete and based upon the best available scientific and commercial information, we are soliciting information regarding the population structure and status of these rockfish species.

DATES: Information and comments on the subject action must be received by May 16, 2008.

ADDRESSES: You may submit comments, identified by the code 0648–XF89, addressed to: Chief, NMFS, Protected Resources Division, by any of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- *Facsimile (fax):* 503–231–5441
- *Mail:* 1201 NE Lloyd Boulevard, Suite 1100, Portland, Oregon, 97232.
- *Hand delivery:* You may hand-deliver written comments to our office

during normal business hours at the street address given above.

Instructions: All comments received are a part of the public record and may be posted to *http://www.regulations.gov* or *http://www.nwr.noaa.gov* without change. All personally identifiable information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, Corel WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 231–2005; or Dwayne Meadows, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 2007, we received a petition from Mr. Sam Wright (Olympia, Washington) to list distinct population segments (DPSs) of bocaccio, canary rockfish, yelloweye rockfish, greenstripe rockfish, and redstripe rockfish in Puget Sound as endangered or threatened species under the ESA and to designate critical habitat. We declined to initiate a review of the species' status under the ESA, finding that the petition failed to present substantial scientific or commercial information to suggest that the petitioned actions may be warranted (72 FR 56986; October 5, 2007). On October 29, 2007, we received a letter from Sam Wright presenting information that was not included in the April 2007 petition, and requesting that we reconsider our October 5, 2007, decision not to initiate a review of the species' status. We considered the supplemental information provided in the letter, in addition to the information submitted previously in the April 2007 petition, as a new petition to list bocaccio, canary rockfish, yelloweye rockfish, greenstripe rockfish, and redstripe rockfish and to designate critical habitat. Copies of the April 2007 petition, our October 2007 petition finding, and the October 2007 letter are available from NMFS (see **ADDRESSES**, above).

ESA Statutory, Regulatory, and Policy Provisions

Section 4(b)(3) of the Endangered Species Act (ESA) contains provisions concerning petitions from interested persons requesting the Secretary of Commerce (Secretary) to list species under the (ESA) (16 U.S.C. 1533(b)(3)(A)). Section 4(b)(3)(A) requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Joint NOAA-U.S. Fish and Wildlife Service (USFWS) ESA implementing regulations define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (50 CFR 424.14(b)(1)). In evaluating a petitioned action, the Secretary considers whether the petition contains a detailed narrative justification for the recommended measure, including: past and present numbers and distribution of the species involved, and any threats faced by the species (50 CFR 424.14(b)(2)(ii)); and information regarding the status of the species throughout all or a significant portion of its range (50 CFR 424.14(b)(2)(iii)). In addition to the information presented in a petition, we review other data and publications readily available to our scientists (i.e., currently within agency files) to determine whether it is in general agreement with the information presented in the petition. When it is found that substantial information is presented in the petition, we are required to promptly commence a review of the status of the species concerned. Within 1 year of receipt of the petition, we must make one of the following findings: (1) the petitioned action is not warranted; (2) the petitioned action is warranted, in which case we must promptly publish a propped listing determination; or (3) the petitioned action is warranted but that a proposed listing is precluded by pending rulemaking for other species.

Under the ESA, a listing determination may address a species, subspecies, or a DPS of any vertebrate species which interbreeds when mature (16 U.S.C. 1532(15)). A joint NOAA-USFWS policy clarifies the agencies' interpretation of the phrase ''distinct population segment of any species of vertebrate fish or wildlife'' (ESA section 3(16)) for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722, February 7, 1996). The joint DPS policy established two criteria that must be met for a population or group of populations to be considered a DPS: (1) the population segment must be discrete in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the population segment must be significant to the remainder of the species (or subspecies) to which it belongs. A population segment may be considered discrete if it satisfies either one of the following conditions: (1) it is markedly separated from other populations of the same biological taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries across which there is a significant difference in exploitation control, habitat management, conservation status, or if regulatory mechanisms exist that are significant in light of section 4(a)(1) of the ESA. If a population is determined to be discrete, the agency must then consider whether it is significant to the taxon to which it belongs. Considerations in evaluating the significance of a discrete population include: (1) persistence of the discrete population in an unusual or unique ecological setting for the taxon; (2) evidence that the loss of the discrete population segment would cause a significant gap in the taxon's range; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere outside its historical geographic range; or (4) evidence that the discrete population has marked genetic differences from other populations of the species.

A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, or ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA Sections 3(6) and 3(20), respectively).

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, a species can be determined to be threatened or endangered based on any 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 manmade factors affecting the species continuing existence. Listing determinations are based solely on the best available scientific and commercial data after taking into account any efforts

being made by any state or foreign nation to protect the species.

Distribution and Life-History Traits of Rockfishes

Rockfishes are a diverse group of marine fishes (about one hundred and two species worldwide and at least seventy-two species in the northeastern Pacific (Kendall, 1991)), and are among the most common benthic fish on the Pacific coast of North America (Love *et al.*, 2002). Adult rockfish can be the most abundant fish in various coastal benthic habitats such as relatively shallow subtidal kelp forests, rocky reefs, and rocky outcrops in submarine canyons at depths greater than 980 feet (300 m) (Yoklavich, 1998). The life history of rockfish is different than that of most other bony fishes. Whereas most bony fishes fertilize their eggs externally, fertilization and embryo development in rockfishes is internal, and female rockfish give birth to live larval young. Larvae are found in surface waters, and may be distributed over a wide area extending several hundred miles (several hundred kilometers) offshore (Love *et al.*, 2002). Larvae and small juvenile rockfish may remain in open waters for several months being passively dispersed by ocean currents. The dispersal potential for larvae varies by species depending on the length of time larvae remain in the pelagic environment (i.e., ''pelagic larval duration''), and the fecundity of females (i.e., the more larval propagules a species produces, the greater the potential that some larvae will be transported long distances). Larval rockfish feed on diatoms, dinoflagellates, tintinnids, and cladocerans, and juveniles consume copepods and euphausiids of all life stages (Sumida and Moster, 1984). Survival and subsequent recruitment of young rockfishes exhibit considerable interannual variability (Ralston and Howard, 1995). New recruits may be found in tide pool habitats, and shallow coastal waters associated with rocky bottoms and algae (Love, 1996; Sauma and Ralston, 1995). Juvenile and subadults may be more common than adults in shallow water, and are associated with rocky reefs, kelp canopies, and artificial structures such as piers and oil platforms (Love *et al.*, 2002). Adults generally move into deeper water as they increase in size and age (Garrison and Miller, 1982; Love, 1996), but generally exhibit strong site fidelity to rocky bottoms and outrcrops (Yoklavich *et al.*, 2000). Adults eat demersal invertebrates and small fishes, including other species of rockfish, associated with kelp beds, rocky reefs, pinnacles, and sharp drop-offs (Love, 1996; Sumida and Moser, 1984). Many species of rockfishes are slow-growing, long-lived (50–140 years; Archibald *et al.*, 1981), and mature at older ages (6–12 yrs; Wyllie-Echeverria, 1987).

Bocaccio Bocaccio range from Punta Blanca, Baja California, to the Gulf of Alaska off Krozoff and Kodiak Islands (Chen, 1971; Miller and Lea, 1972). They are most common within this range between Oregon and northern Baja California (Love *et al.*, 2002). Bocaccio are most common between 160 and 820 feet (50 and 250 m) depth, but may be found as deep as 1560 feet (475 m) (Orr *et al.*, 2000). Bocaccio larvae have relatively high dispersal potential with a pelagic larval duration of approximately 155 days (Shanks and Eckert, 2005), and fecundity ranging from 20,000 to over 2 million eggs, considerably more than many other rockfish species (Love *et al.*, 2002). Approximately 50 percent of adults mature in 4 to 6 years (MBC, 1987). Adults are difficult to age, but are suspected to live as long as 50 years (Love *et al.*, 2002).

Canary Rockfish – Canary rockfish range between Punta Colnett, Baja California, and the Western Gulf of Alaska (Boehlert, 1980; Mecklenburg *et al.*, 2002). Within this range canary rockfish are most common off the coast of central Oregon (Richardson and Laroche, 1979). Canary rockfish primarily inhabit waters 160 to 820 feet (50 to 250 m) deep (Orr *et al.*, 2000), but may be found up to 1400 feet (425 m) depth (Boehlert, 1980). Canary rockfish larvae have relatively high dispersal potential with a pelagic larval duration of approximately 116 days (Shanks and Eckert, 2005), and fecundity ranging from 260,000 to 1.9 million eggs, considerably more than many other rockfish species (Love *et al.*, 2002). Approximately 50 percent of adults are mature at 14 inches (35.6 cm) total length (5 to 6 years of age) (Hart, 1973). Canary rockfish can live to be 75 years old (Love, 1996).

Greenstripe Rockfish – Greenstripe rockfish range from Cedros Island, Baja California, to Green Island in the Gulf of Alaska. Within this range greenstripe rockfish are common between British Columbia and Punta Colnett in Northern Baja California (Eschmeyer *et al.*, 1983; Hart, 1973; Love *et al.*, 2002). Greenstripe rockfish is a deep-water species that can inhabit waters from 170 to 2715 feet (52 to 828 m) in depth, but is most common between 330 and 820 feet (100 and 250 m) depth (Orr *et al.*, 2000). Estimates of pelagic larval duration and fecundity are not available for greenstripe rockfish to infer dispersal potential, although we expect that larval duration would be similar to or lower than that for bocaccio or canary rockfish (116–155 days; Varanasi, 2007). Approximately 50 percent of adults mature at 7 to 7.5 inches (18 to 19 cm) total length (Love *et al.*, 1990). Male greenstripe rockfish can live to approximately 37 years of age, and females to approximately 28 years of age (Love *et al.*, 1990).

Redstripe Rockfish – Redstripe rockfish occur from southern Baja California to the Bering Sea (Hart, 1973; Love *et al.*, 2002). Redstripe rockfish have been reported between 39 and 1400 feet (12 and 425 m) in depth, but 95 percent occur between 490 and 900 feet (150 and 275 m) (Love *et al.*, 2002). Estimates of pelagic larval duration and fecundity are not available for redstripe rockfish to infer dispersal potential, although we expect that larval duration would be similar to or lower than that for bocaccio or canary rockfish (116–155 days; Varanasi, 2007). Approximately 50 percent of adults mature at 11 to 11.5 inches (28 to 29 cm) total length (Garrison and Miller, 1982), and may reach 55 years of age (Munk, 2001).

Yelloweye Rockfish – Yelloweye rockfish range from northern Baja California to the Aleutian Islands, Alaska, but are most common from central California northward to the Gulf of Alaska (Clemens and Wilby, 1961; Eschmeyer *et al.*, 1983; Hart, 1973; Love, 1996). Yelloweye rockfish occur in waters 80 to 1560 feet (25 to 475 m) deep (Orr *et al.*, 2000), but are most commonly found between 300 to 590 feet (91 to 180 m) depth (Love *et al.*, 2002). Approximately 50 percent of adults are mature by 16 inches (41 cm) total length (about 6 years) (Love, 1996). Estimates of pelagic larval duration are not available for yelloweye rockfish, although we expect that it would be similar to or lower than that for bocaccio or canary rockfish (116–155 days; Varanasi, 2007). Fecundity ranges from 1.2 to 2.7 million eggs, considerably more than many other rockfish species (Love *et al.*, 2002). Yelloweye rockfish are among the longest lived of rockfishes, living to be at least 118 years old (Love, 1996; Love *et al.*, 2002; O'Connell and Funk, 1986).

Previous Rockfish Petitions and Status Review

In February 1999 we received a petition from Mr. Wright to list 18 species of marine fishes in Puget Sound under the ESA, including 14 species of rockfish. We issued a positive 90–day finding on June 21, 1999 (64 FR 33037), and initiated ESA status reviews for

seven of the petitioned species, including three rockfish species (copper, brown and quillback rockfishes). For the remaining 11 petitioned rockfish species, which included the five rockfish species that are the subject of this notice, we found that there was insufficient information concerning stock structure, status and trends. Consequently, for these 11 species, we found that the petition failed to present substantial information to suggest that listing these species in Puget Sound may be warranted.

In 2001 we convened a Biological Review Team (BRT) to evaluate the population structure and biological status of the three rockfish species for which we initiated status reviews. The BRT concluded that the brown, copper and quillback rockfishes in Puget Sound Proper (defined as east of Deception Pass and to the south and east of Admiralty Head, encompassing southern Puget Sound, Whidbey Basin, Hood Canal, and the main Basin) constitute DPSs for consideration as ''species'' under the ESA (Stout *et al.*, 2001). On April 3, 2001, we concluded that these DPSs did not warrant listing as threatened or endangered species (66 FR 17659). Although these DPSs had experienced declines over the last 40 years, likely due to overharvest, we noted that the populations appeared stable over the most recent 5 years.

In September 2006, we received another petition from Mr. Wright to list the Puget Sound DPSs of copper and quillback rockfishes as endangered or threatened species under the ESA. The petition did not include new data or information regarding the abundance, trends, productivity, or distribution for these species. The petitioner criticized the risk assessment methods of the 2001 BRT and disagreed with our conclusion that the two DPSs did not warrant listing. We determined that the September 2006 petition from Mr. Wright failed to present substantial scientific and commercial information to suggest that the ESA listing of copper and quillback rockfishes in Puget Sound may be warranted (72 FR 2863; January 23, 2007).

Analysis of Mr. Wright's New Petition

We reviewed the information from Mr. Wright's April 2007 petition, the supplemental information provided in his October 2007 letter, as well as other information readily available to our scientists (i.e., currently within our files), to determine if the new petition presents substantial scientific or commercial information indicating that the petitioned actions may be warranted. Specifically, we evaluated whether: (1) the 5 rockfish species may warrant delineation into one or more DPSs; and (2) the 5 species, or putative DPSs, may be in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of their range.

Information Regarding the DPS Structure of the Five Rockfish Species in Puget Sound

Under the 1996 joint DPS policy, a population or group of populations is considered a DPS if it is ''discrete'' and ''significant'' to the remainder of the species to which it belongs (51 FR 4722; February 7, 1996). The petitioner contends that the five petitioned species likely warrant delineation as Puget Sound DPSs based on: (1) relatively closed oceanographic circulation patterns in the Puget Sound area (see Stout *et al.*, 2001, at p. 75) that should promote the retention of rockfish larvae originating within Puget Sound, and limit the delivery of larvae from sources external to Puget Sound; and (2) NMFS' finding in 2001 that brown, copper, and quillback rockfishes in Puget Sound respectively warranted delineation as DPSs (Stout *et al.*, 2001; 66 FR 17659, April 3, 2001). Although the five petitioned rockfish species may be considered to have high dispersal ''potential'' due to their long pelagic larval duration and high fecundity, their realized larval dispersal is determined to a large extent by local oceanographic patterns and larval behavior (Varanasi, 2007). Since the larvae of these rockfish species are generally associated with surface waters during the pelagic dispersal phase, we agree with the petitioner that the relatively closed circulation patterns of surface waters in Puget Sound lends support to the ''discreteness'' of these species in Puget Sound. Although, as the petitioner acknowledges, there are no population genetic studies of the five petitioned species that include samples from Puget Sound, the available studies of West Coast rockfish suggest that it is reasonable to suspect that there are genetically discrete Puget Sound population segments for these species. There are examples of rockfish populations exhibiting genetic differences in relation to circulation patterns and biogeographic barriers, many of which are probably less restrictive to trans-boundary larval dispersal than the entrance to Puget Sound (Sekino *et al.*, 2001; Varanasi, 2007). Even on the open coast where one might expect oceanographic patterns to result in considerable larval exchange and strong genetic similarities among stocks, the available genetic studies indicate that rockfish species exhibit some level of genetic population structure (Buonaccorsi *et al.*, 2002, 2005; Cope, 2004; Rocha-Olivares and Vetter, 1999). One of the petitioned species, bocaccio, also exhibits genetic population structure on the open coast (Matala *et al.*, 2004), and it is reasonable to assume the it would also show some genetic isolation within Puget Sound relative to other areas (Varanasi, 2007). Genetic studies that include samples from Puget Sound have found that rockfish populations in Puget Sound are generally distinct from populations sampled in other geographic areas (Buonaccorsi *et al.*, 2002, 2005). Based on the above information, we find that the new petition presents substantial scientific information indicating that the five petitioned DPSs may satisfy the ''discreteness'' criterion under the joint DPS policy (Varanasi, 2007).

However, ''discreteness'' does not necessarily indicate that a population group may also be ''significant'' and hence a DPS for listing consideration. As noted above, the petitioner contends that the 5 petitioned rockfish species are likely DPSs based on our 2001 DPS delineations for brown, copper, and quillback rockfishes in Puget Sound (Stout *et al.*, 2001). These three ''discrete'' population segments were found to be ''significant'' under the DPS policy because the environmental, geological, and biogeographic characteristics of Puget Sound represent ''an ecological setting that is unusual or unique for the taxon.'' These characteristics unique to the Puget Sound are reflected in likely adaptive life-history differences (e.g., coloration patterns, mating behaviors, or timing of reproduction) for the respective species in Puget Sound relative to elsewhere in their range (Stout *et al.*, 2001). These same characteristics that established the uniqueness of the Puget Sound ecosystem also apply to the 5 petitioned rockfish species in Puget Sound (Varanasi, 2007). It is likely that ''discrete'' population segments for the 5 species would be ''significant'' under the DPS policy as Puget Sound represents an ecological setting that is unusual or unique for the taxon. We find that the new petition presents substantial scientific information indicating that the five petitioned rockfish species in Puget Sound may satisfy the ''significance'' criterion under the joint DPS policy, and thus may warrant delineation as DPSs for listing consideration under the ESA.

Information Regarding the Extinction Risk of the Five Rockfish Species in Puget Sound

The petitioner stresses the importance of age structure, longevity, and the maternal-age effect in evaluating the extinction risk of rockfish populations. (The reader is referred to our earlier petition finding (72 FR 2865; January 23, 2007) for further discussion of the maternal-age effect and related scientific publications.) The importance of this maternal-age effect in the wild depends upon the age structure and age-at-maturity of the specific populations under consideration (72 FR 2865; January, 23, 2007). However, the necessary data are not available to evaluate the actual importance of the maternal-age effect for the five recently petitioned rockfish species.

The April 2007 petition provides recreational catch data for the five petitioned species spanning approximately 12 years from the mid–1970s to mid–1990s. These data suggest possible declines for three of the species (bocaccio, greenstripe, and red stripe rockfishes) and no decline for the other two species (canary and yelloweye rockfish). In our October 2007 finding we noted that the support for making any inferences regarding population status was weak, given that the petition did not include information regarding the level or distribution of fishery effort, changes in fisheries practices, or changes in regulations governing fisheries in which the petitioned species are taken as bycatch (72 FR 56986; October 5, 2007). We concluded that without this additional information it was not possible to determine whether the recreational catch data reflect population status. We concluded that the recreational catch and other anecdotal information in the petition do not represent ''substantial scientific or commercial'' information that would lead a reasonable person to believe that the status of the petitioned species may be at risk.

In his October 29, 2007, letter the petitioner presents supplemental information necessary for determining whether the recreational catch data provided in the April 2007 petition are valid reflections of population status for the petitioned species. Specifically, the petitioner provides the information regarding fishery effort, changes in fisheries practices, and changes in fishery regulations that we found lacking in the April 2007 petition.

The petitioner explains that there are three possible explanations that might account for a decline in the recreational catch data: (1) That there was a change in the distribution of fishery effort or a change in the distribution of the petitioned species; (2) that there was a change in angler behavior or fishery regulations resulting in decline in overall fishery effort; or (3) that the recreational catch data indeed reflect declining trends in the species' abundance. The petitioner notes that the petitioned species are non-migratory, so a change in the stocks' distribution is not a valid explanation for the observed declining trends in catch for bocaccio, redstripe rockfish and greenstripe rockfish. Moreover, there is no information to suggest that the spatial distribution of fishery effort changed appreciably over the time period to explain the observed trends in the recreational catch data. The petitioner also concludes that the observed trends are not explainable by declining fishery effort due to changes in angler behavior or fishery regulations.

During the 12–year period for which there is recreational fishery data, anglers began to directly target rockfish species to compensate for the reduced availability of salmonids for harvest, and anglers were also able to target rockfish aggregations more efficiently and at much greater depths due to rapid advances in fish-finding technology. The petitioner concludes that these changes in angler effort and of rockfish harvest should have led to an increase in total catch. Given this expectation, the petitioner is particularly concerned that observed declines in the catch data for bocaccio, redstripe rockfish, and greenstripe rockfish likely reflect severe declines in the abundance of these stocks. The petitioner further suspects that the increasing fishery effort and efficiency likely masked declining trends in abundance for canary rockfish and yelloweye rockfish stocks. In support of his qualitative inferences from changes in angler behavior and efficiency, the petitioner provides data for overall fishery effort (measured in the number of angler boat trips) and catch per unit effort over the 12–year period of recreational catch data. Over this period the number of angler trips increased substantially, and there was a decline in the average number of rockfish caught per trip (Palsson *et al.*, 1997; Palsson and Pacunski, 1998; West, 1997).

The fishery effort and catch per unit effort data support the petitioner's conclusions that the recreational catch data reflect severe declines in stock abundance for bocaccio, redstripe rockfish, and greenstripe rockfish, and that increasing fishery effort and efficiency over the time period likely masked declines in stock abundance for canary rockfish and yelloweye rockfish. Finally, the petitioner concludes that the observed declining trends in the recreational catch data cannot be explained by a reduction in catch due to changing fishery regulations. Changes in rockfish catch regulations (e.g., reductions in the daily bag limit) and large scale closures in salmonid fisheries in which rockfish are taken as bycatch did not occur until 1994, well after the period covered by the recreational catch data (1975–1986). Based on the supplemental information, the petitioner concludes that the most parsimonious explanation for the observed trends in the recreational catch data is that they reflect actual declines in the abundance of the five petitioned species in Puget Sound.

Petition Finding

After reviewing the information contained in the April 2007 petition, the supplemental information contained in the petitioner's October 2007 letter, and other information readily available in our files, we determine that the new petition presents substantial scientific or commercial information indicating the petitioned actions may be warranted. In accordance with section 4(b)(3)(B) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(2)), we will commence a review of the status of the five species concerned and make a determination within 12 months of receiving the new petition (i.e., by October 29, 2008) whether the petitioned action is warranted.

Information Solicited

DPS Structure and Extinction Risk

To ensure that the updated status review is complete and based on the best available and most recent scientific and commercial data, we solicit data, information, and comments (see **DATES** and **ADDRESSES**) concerning the status of bocaccio, canary rockfish, yelloweye rockfish, greenstripe rockfish, and redstripe rockfish. We solicit pertinent information such as: (1) biological or other data pertinent to determining the DPS structure of these 5 rockfish species (e.g., age structure, genetics, migratory patterns, morphology, physiology); (2) historical trends and current abundance and distribution of these rockfish stocks in Puget Sound; (3) natural and human-influenced factors that cause variability in their survival, distribution, and abundance; and (4) current or planned activities and their possible impact on these rockfish species (e.g., harvest measures and habitat actions).

Efforts Being Made to Protect Puget Sound Rockfish

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after conducting a review of the status of a species and after taking into account efforts being made to protect the species. Therefore, in making its listing determinations, we first assess the status of the species and identify factors that have led to the decline. We then assess conservation measures to determine whether they ameliorate a species' extinction risk (50 CFR 424.11(f)). In judging the efficacy of conservation efforts, NMFS considers the following: the substantive, protective, and conservation elements of such efforts; the degree of certainty that such efforts will reliably be implemented, and the degree of certainty that such efforts will be effective in furthering the conservation of the species (68 FR 15100, March 28, 2003); and the presence of monitoring provisions that track the effectiveness of recovery efforts, and that inform iterative refinement to management as information is accrued. In some cases, conservation efforts may be relatively new or may not have had sufficient time to demonstrate their biological benefit. In such cases, provisions of adequate monitoring and funding for conservation efforts are essential to ensure that the intended conservation benefits are realized. We also encourage all parties to submit information on ongoing efforts to protect these 5 rockfish stocks in Washington, as well as information on recently implemented or planned activities and their likely impact(s).

References Cited

A complete list of all references is available upon request from the Protected Resources Division of the NMFS Northwest Regional Office (see **ADDRESSES**).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 11, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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