6. Verification of Submitted Information. OTEXA may, at any time, verify the information submitted by a qualifying apparel producer or its designee. OTEXA may require any textile mill or other entity located in the United States that exports to the Dominican Republic qualifying woven fabric, upon such export or upon request, documentation to OTEXA: (a) verifying that the qualifying woven fabric was exported to a producer in the Dominican Republic or to an entity controlling production; and (b) identifying such producer or entity controlling production, and the quantity and description of qualifying woven fabric exported to such producer or entity controlling production. OTEXA may also require that a producer or entity controlling production submit documentation to verify purchases of qualifying woven fabric. OTEXA may make available to each person or entity identified in documentation submitted under these provisions information contained in the documentation that relates to the purchase of qualifying woven fabric involving such person or entity. OTEXA may establish and impose penalties for the submission to OTEXA of fraudulent information under this program, other than a claim under the customs laws of the United States or under title 18, United States Code.

7. Contact Information: Questions regarding the Earned Import Allowance program or the DR 2 for 1 online system may contact OTEXA via email at OTEXA__DR2for1@mail.doc.gov, or by phone to the Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

Dated: January 15, 2009.

R. Matthew Priest,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. E9–1215 Filed 1–15–09; 4:15 pm]

BILLING CODE 3510–DS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XM75

Endangered and Threatened Species; Recovery Plan

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

ACTION: Notice of availability.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the availability of the recovery plan for the U.S. Distinct Population Segment (DPS) of smalltooth sawfish (*Pristis pectinata*) as required by the Endangered Species Act of 1973 (ESA).

ADDRESSES: The final plan is provided on NMFS' Protected Resources Internet Web site at: *http://www.nmfs.noaa.gov/pr/recovery/plans.htm*.

Requests for a copy of the recovery plan may be submitted to the Smalltooth Sawfish Plan Coordinator at: NMFS, Southeast Regional Office, Protected Resources Division, 263 13th Avenue South, St. Petersburg, Florida, 33701.

FOR FURTHER INFORMATION CONTACT: Shelley Norton at (727) 824–5312, or by e-mail at *shelley.norton@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Congress passed the ESA (16 U.S.C. 1531 *et seq.*) to protect species of plants and animals in danger of extinction. NMFS and the U.S. Fish and Wildlife Service (FWS) share responsibility for the administration of the ESA. NMFS is responsible for most endangered and threatened marine species, including the U.S. DPS of smalltooth sawfish (*Pristis pectinata*). Listed endangered or threatened species under NMFS jurisdiction are identified in 50 CFR 224.101(a) and 50 CFR 223.102, respectively. The List of Endangered and Threatened Species, which contains species under the jurisdiction of both agencies, is provided in 50 CFR 17.11(h). The U.S. DPS of smalltooth sawfish is listed as endangered.

Section 4(f)(1) of the ESA requires that recovery plans be developed and implemented for the conservation and survival of endangered and threatened species, unless such plans would not promote the conservation of the species. A plan was prepared at the request of the Assistant Administrator for Fisheries to promote the recovery of smalltooth sawfish.

Summary of Comments Received

Below we address the comments received pertaining to the Draft Smalltooth Sawfish Recovery Plan (Plan) published August 28, 2006. In response to our request for public comments, we received over 6,000 written responses to the Plan. The majority of the responses expressed general support for the Plan. Five commenting agencies and 3 scientific peer reviewers provided more specific comments. Responses to specific comments are provided below.

Peer Review Comments

Comment 1: A commenter suggested the use of circle hooks for recreational fishers as a means to reduce bycatch. Additionally, another commenter stated that studies on post-release mortality should be a higher priority.

Response: Action 1.1.5 recommends investigating fishing devices such as circle hooks that may reduce the capture, injury, and mortality of smalltooth sawfish in recreational fisheries. NMFS agrees with the commenter who stated we should make studies on post-release mortality a higher priority. NMFS changed the priority numbers of Action 1.1.3 from a priority 2 to a priority 1 because new data on related species indicates the use of circle hooks may decrease post-release mortality.

Comment 2: A commenter noted the need to develop systematic sampling programs. Additionally, a commenter stated NMFS should plan for long-term monitoring and tagging of animals.

Response: Action Items 3.2 and 3.4 identify the need for surveys and NMFS is currently developing the specific sampling design programs to accomplish our recovery goals. The Plan also plans for long-term monitoring (Action 3.2.4) and tagging (Action 3.1.2) of animals to monitor the recovery process.

Comment 3: A commenter suggested allowing additional permits for non-directed research to allow tagging of and release of captured animals.

Response: Researchers working within the range of smalltooth sawfish and with gears that may incidentally capture the species can apply for an ESA permit to tag smalltooth sawfish. Researchers who are required to obtain an ESA permit for work on other federally endangered or threatened species may request authorization from NMFS to tag incidentally caught smalltooth sawfish.

Comment 4: A commenter stated that NMFS needs to have a long-term commitment to surveying and tagging smalltooth sawfish.

Response: The Plan looks forward 100 years and includes actions and budgeting requirements for the implementation of all Action Items, including surveying and tagging of smalltooth sawfish.

Comment 5: A commenter questioned the ability to detect increases in catch per unit effort (CPUE) data for the abundance criterion for juveniles in Objective 3.

Response: NMFS is currently developing randomized, stratified survey methodologies that will detect

changes in CPUE throughout the species range. Additionally, NMFS may need to continue to utilize recreational and commercial capture or sighting records to determine changes or trends in relative abundance.

Comment 6: A commenter requested information regarding gillnet prohibitions by state.

Response: Appendix C of the Plan summarizes the existing state laws or regulations related to gillnets within the species' historic range.

Comment 7: A commenter stated that the Plan did not consistently note the difference in population increase rates. They were noted as a percent or described as a proportion in the Plan.

Response: NMFS has modified the Plan to use percent throughout.

Comment 8: A commenter asked if the Everglades National Park creel data (Figure 7) accounted for fishing effort.

Response: Yes, the results presented do take into account fishing effort. Catch per Unit Effort was calculated using the number of fishers.

Comment 9: A commenter asked if sawfish were always taken as bycatch in nearshore fisheries.

Response: A review of historical fishing records and literature on the species indicates no directed fisheries existed for the species but limited directed take occurred for aquaria and trade of sawfish parts, thus historical sawfish captures were predominantly as bycatch in fisheries targeting other species.

Comment 10: A commenter stated the Plan does not provide adequate discussion on how to address a declining or stable population.

Response: The Plan identifies several actions (1.1.1, 1.1.18, etc.) that address monitoring and minimization of existing threats. If population level monitoring indicates a decrease or leveling off of the population below target levels, NMFS will identify the cause and develop an action or actions to address the problem. NMFS periodically reviews the effectiveness of the Plan and the status of the species and makes adjustments to the Plan if necessary (including additional mitigation measures, etc.).

Comment 11: A commenter stated that studying the connectivity between the U.S. population and populations in Mexico, Cuba, and the Bahamas should be a higher priority because the species is not listed in those countries.

Response: Action 3.1 identifies the need to investigate the relationship between the U.S. population of sawfish and those in neighboring countries; however, NMFS ranked threats such as bycatch and habitat as being higher priority actions. The listed entity and the subject of the Plan is the U.S. DPS of smalltooth sawfish. While additional information on nearby populations is of scientific interest and value, NMFS believes, based on currently available information, we should focus our efforts on the recovery of the U.S. DPS because we believe the U.S. population is distinct from all other populations. We believe actions affecting smalltooth populations outside of the United States do not affect the U.S. smalltooth sawfish's recovery efforts.

Comment 12: A commenter expressed concern regarding the priority levels given the timing of various research activities.

Response: NMFS addressed this comment by re-evaluating the research activities in the Plan. The research priorities numbers were reassessed by the team and were modified to match the timing of the action. Actions that must occur before others can take place were given higher priority based on timing. The action relating to (1) connectivity of populations (Action 3.1) was not a high priority because focus needs to be on the US DPS, so it was given a priority level of 3; (2) post-release mortality (Action 1.1.3) was upgraded to priority level 1; and (3) collection of reproductive data (Action 3.3.1) was not critical for the development of the PVA because reproductive data on a comparable species, the largetooth sawfish (P. perotteti), was used, so its priority level was not changed.

Comment 13: A commenter stated that the lack of reproductive biology information on the species is a problem, especially when the PVA is developed.

Response: As discussed above, existing reproductive data from largetooth sawfish (*P. perotteti*) can be and were used by NMFS internally to develop a preliminary PVA model for the smalltooth sawfish. As species-specific data become available, we can update the PVA model and examine its reliability with continued use of congener data.

Comment 14: A commenter stated that NMFS should determine how many smalltooth sawfish fins are sold in the shark fin trade. The commenter also stated that the shark fin trade is increasing.

Response: The Plan identifies the fin trade as a threat to sawfish but available fin trade data does not indicate that finning is a major threat to the recovery of the species. Action 1.2 in the Plan identifies the need to monitor trade of sawfish parts to ensure the long-term viability of the species.

Comment 15: The Department of the Navy (DoN) has requested exemptions for maintenance dredging activities.

Response: Exemptions are outside of the scope of the authority of recovery planning documents. NMFS will address the effects of future proposed DoN actions on listed species during the section 7 consultation process.

Comment 16: DoN stated they may potentially carry more of the burden of recovering the smalltooth sawfish.

Response: All Federal agencies have express responsibilities under section 7 of the ESA. Section 7 (a)(1) states ''all other federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of endangered and threatened species....'' Additionally, section 7 (a)(2) of the ESA states ''federal agencies shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary....'' The DoN owns or manages some of the remaining known high quality sawfish habitat located within the current range of the species (Florida). However, the small percentage of high quality habitat under the DoN's jurisdiction suggests they should not be unduly affected by the majority of the recovery efforts.

Comment 17: The DoN expressed concern in regards to Recovery Objective ι2. This states the downlisting criteria of maintaining and protecting 95 percent of mangrove shoreline habitat at the time of listing (2003). The DoN stated that the objective seems ambitious and unachievable and stated that NMFS should fund mangrove studies to determine the extent of the loss of mangrove habitats that existed in 1940 and 2003 before determining recovery levels. Additionally, the DoN asked how NMFS would know the mangrove recovery criteria have been met.

Response: Recovery plan levels are consistent with Federal and state regulations that protect mangrove habitats and require permits and mitigation for unavoidable impacts. Mangrove habitats are currently protected in the state of Florida under the Mangrove Trimming and Preservation Act, as amended in 1996. Maintaining 95 percent of remaining mangrove habitat should be achievable

with the existing laws and regulations in place. Based on the existing data on juvenile smalltooth sawfish habitat usage patterns, mangrove habitats are essential for juvenile smalltooth sawfish. NMFS funded a mangrove study in 2008 to determine the changes in mangrove abundance within the range of juvenile smalltooth sawfish to determine the extent of habitat modification that occurred since the 1940s and since the time of listing. NMFS will modify mangrove related recovery criteria based on the results of the study as appropriate.

Comment 18: The DoN noted the focus of the Plan's recovery efforts are in south Florida.

Response: South Florida was historically the center of abundance for the species and is currently the center of its abundance and the only documented location of a reproducing population. Recovery actions are also identified for areas outside of Florida (North Carolina to Texas). As the population expands and recovers areas outside of south Florida will become increasingly important for the species.

Comment 19: The DoN expressed concern over whether freshwater flow regimes to nursery areas have been established.

Response: The Recovery Plan was written based on the ''best available science'' and since research has shown that estuarine areas with freshwater sources are important to juvenile smalltooth sawfish, it is considered an important factor. Data on specific freshwater flow requirements are lacking for the species. If and when improved data on the salinity requirements of the species are known, they will be incorporated into the Plan.

Comment 20: The DoN expressed concern that the abundance of sawfish was not quantified at the time of listing.

Response: The Plan contains recovery criteria based on the use of relative abundance because the species is endangered, highly mobile, and quantifying absolute abundance is not currently possible. The current population is estimated to consist of a few thousand animals (Simpfendorfer, 2004). Absolute abundance cannot be determined for the species but relative abundance may be obtained by using various data sets as indices of abundance. The ENP creel and guide survey provides monitoring back to 1989 prior to the date of listing. Other surveys conducted by federal and state agencies began prior to listing and are ongoing (Florida Independent Monitoring Program, etc.). These data sets will be used to document relative abundance through time. More baseline information is still required and increased survey and monitoring efforts are planned for the near future. Monitoring data (captures and or sightings) should provide us with a measure of increase or decrease in relative abundance that can be used to estimate the overall population size. Given the rate of population increase or decrease, these surveys will provide a reasonable proxy for the population estimate at the time of listing. Thus, the need to complete surveys prior to adopting the recovery objective is not required.

Comment 21: The DoN stated the lower Florida Keys do not provide good habitat for juvenile sawfish because the salinity of the waters surrounding the area are often hyposaline or hypersaline, not euryhaline.

Response: NMFS has limited and highly variable documented encounters of juvenile smalltooth sawfish in the Florida Keys (See Poulakis and Seitz [2004] and Simpfendorfer and Wiley [2005]). At this time, we cannot identify specific habitat features important to juveniles in the Florida Keys but we do know that juveniles are occasionally sighted or captured in the area.

Comment 22: The DoN stated that riverine mangroves are functionally different from those found in the lower Florida Keys systems and are less important to sawfish. The DoN also stated that NMFS should consider creating a new recovery region for the lower Keys and classify the various types of mangrove habitats prior to designating critical habitat.

Response: Current data on habitat usage by juvenile smalltooth sawfish indicate they primarily utilize habitats that contain the following features: shallow and euryhaline waters and red mangroves. These habitats are not solely located within rivers so we do not agree that riverine mangroves are more important to juvenile smalltooth sawfish than non-riverine mangroves. The delineation of the recovery regions is based primarily on biogeographical boundaries. Based on the encounter data and the similarity between habitats located within the upper and lower Florida Keys, NMFS did not consider changing the boundaries of Recovery Region I.

Comment 23: A commenter suggested that NMFS establish optimum water quality and habitat targets for the Caloosahatchee River.

Response: The Plan includes recovery actions to identify and maintain or restore appropriate water quality, including the timing of freshwater releases, for juvenile sawfish (Action 2.2 and associated sub-actions). This includes the Caloosahatchee River. At this time there is insufficient data available on appropriate water quality levels in areas utilized by juvenile sawfish; however, research currently underway is collecting data in the Caloosahatchee River to address this need.

Comment 24: A commenter recommended NMFS clearly define the specific importance of the Caloosahatchee River.

Response: The Caloosahatchee River is currently an important area for smalltooth sawfish. The Caloosahatchee River falls within Recovery Region G, one of six where there is a requirement for maintaining nursery habitats. The plan recognizes the need to recover this species over a broad geographic range, of which the Caloosahatchee River is one component.

Comment 25: A commenter stated that recovery actions should have information about the importance of specific areas. This information is requested to aid in local government planning processes.

Response: NMFS has established ongoing research in specific areas, including in the Caloosahatchee River, which will lead to detailed information for management at the local level; however, specific detailed discussions within the Plan are beyond the scope of the Plan and were therefore not included. NMFS will work with local governments to provide guidance on local management strategies for smalltooth sawfish as the Plan is implemented.

Comment 26: A commenter recommended specific discussion of the effects on smalltooth sawfish from Lake Okeechobee water releases.

Response: Action 2.2 addresses the need to monitor and manage natural and freshwater flow regimes for the species. Freshwater releases from Lake Okeechobee and their effects on smalltooth sawfish are specifically identified in the Plan. Specific cause and effect information from water releases are unknown at this time.

Comment 27: A commenter recommended NMFS designate critical habitat for the smalltooth sawfish.

Response: NMFS proposed critical habitat on November 20, 2008 (73 FR 70290).

Comment 28: A commenter suggested NMFS support the funding of smalltooth sawfish conservation efforts.

Response: The Plan lays out an implementation and cost schedule that will permit NMFS to set priorities for funding and regulatory action and provide for recovery of the species.

Actual implementation of actions in the Plan will depend on available funding.

Comment 29: A commenter recommended the formation of a smalltooth sawfish implementation team.

Response: NMFS has formed a Smalltooth Sawfish Implementation Team. More information on this team can be found at: *http://www.flmnh.ufl.edu/fish/Gallery/Descript/STSawfish/STSawfish.html*.

Comment 30: A commenter suggested that NMFS require new gear and equipment for release of smalltooth sawfish.

Response: NMFS developed Safe Handling and Release Guidelines for the species (Appendix B), and made revisions to the plan to recommend use of circle hooks to reduce hooking injury and mortality. Training in safe handling and release methods for captured smalltooth sawfish is required in some of NMFS federally-managed fisheries. Additionally, specific types of release equipment are required to be on-board boats in specific federally-managed fisheries.

Comment 31: A commenter stated that future developments should not destroy mangroves.

Response: As stated in the response to comment 17, federal, state, and local laws protect mangroves and may be applicable to development projects on a case-by-case basis. The Plan establishes objectives for protection and restoration of mangroves but the Plan itself cannot impose requirements on future development projects.

Comment 32: One commenter recommended that eBay should not be able to sell any parts of sawfish.

Response: Smalltooth sawfish are protected under Appendix 1 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Trade of parts is prohibited.

Comment 33: Numerous (6,000) commenters expressed general support for the recovery plan.

Summary of Changes

Below we describe the changes made to the final Plan that were not discussed in the comment section.

Change 1: The Recovery Criteria for nursery habitat was clarified to include the protection of non-mangrove habitats. Historic and current juvenile encounters indicate they are located in areas outside the range of mangroves. We believe we will need nursery areas outside of the range of mangroves to recover the species, but at this time cannot determine the specific features utilized by juveniles. Once we identify the habitat features utilized by juveniles in non-mangrove habitats, we need to protect and/or restore these areas for recovery of the species.

Change 2: Section II, Recovery Strategy was rearranged to streamline the document and remove redundancy.

Change 3: Figures 8a, 8b, and 8c were renamed as ''Protected Areas'' because they include upland areas as well as marine areas.

Change 4: Citations and Recovery Actions were updated to reflect new publication dates or accomplishment of some actions.

Change 5: Latitude and longitude locations were placed in the Recovery Regions Map (Figure 9) to clarify where each recovery region begins and ends.

Change 6: NMFS made several changes to the Implementation Schedule. We provided additional comments in the ''Comments'' section of the table to note ongoing research. Some action start dates were delayed based on expected budget constraints. Additionally, some of the priority numbers were raised or lowered based on comments from the public. The following Actions were modified or added:

- Action 1.1.3 was changed from a priority 2 to a priority 1.
- Action 1.1.7 was changed from a priority 2 to a priority 3.
- Action 1.1.17 start date was changed to FY08.
- Action 1.5.1 was given a priority of 3.
- Action 2.1.3 start date was changed to FY09.
- Action 2.1.6 was changed from a priority 2 to a priority 1.
- Action 2.1.8 was changed to clarify the function of the area.
- Action 2.1.10 start date was moved to FY08.
- Action 2.1.11 was clarified to include nursery areas only within Florida because Florida is believed to be the center of the population.
- Action 2.2.1 was changed from a priority 2 to a priority 1 and start year was changed to FY08.
- Action 2.2.2 was changed from a priority 2 to a priority 1.
- Action 2.3.3 start date was changed to FY08
- Action 3.1.3 start date was changed to FY08.
- Action 3.3.4 was changed from a priority 1 to a priority 3.
- Action 3.3.5 was changed from a priority 2 to a priority 3.

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

Dated: January 13, 2009.

Angela Somma,

Chief, Endangered Species Division, National Marine Fisheries Service.

[FR Doc. E9–1118 Filed 1–16–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XM79

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scientific and Statistical Committee on February 6, 2009 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, February 6, 2009 at 8:30 a.m.

ADDRESSES: *Meeting address*: The meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000; fax: (401) 732–9309.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Scientific and Statistical Committee (SSC) will review the process to be used by the Scallop Plan Development Team to develop recommendations, as part of Amendment 15 to the Scallop Fishery Management Plan, for acceptable biological catch (ABCs), annual catch limits (ACLs) and accountability measures (AMs), as well as methods for analyzing the social and economic impacts of management measures. The SSC also will review recommendations from the Skate Plan Development Team regarding updated Skate Total Allowable Landings (TALs), as well as ABCs, ACLs and AMs, as part of Amendment 3 to the Skate Fishery Management Plan, using new data reviewed during the recent Data Poor Stocks Peer Review Meeting.