

montanum var. *stellae* has been increased by a hundredfold, from 1,000 to over 100,000 plants, and its known range of 100 km (60 mi) greatly exceeds the range described in the previous distributional information used by the Service in its proposed rule (Welsh and Thorne 1992; Armstrong and England 1993).

The Service previously determined that potential mineral development and recreational activity posed a threat to *L. montanum* var. *stellae* populations. Although some threat still exists to individual plants of this species, the number and size of the populations and their extensive range provides insulation from such threats.

The Service has reviewed the status of *L. montanum* var. *stellae* relative to the five factors in section 4(a) of the Act and has determined that it is not likely to become either endangered or threatened throughout all or a significant portion of its range in the foreseeable future, and it does not qualify for protection under the Act. Therefore, in compliance with section 4(b)(6)(B)(ii) of the Endangered Species Act (Act) of 1973, as amended, the Service finds that there is not sufficient evidence to justify the proposed listing action and withdraws its proposed rule of November 3, 1992 (57 FR 49671), to list *Lepidium montanum* var. *stellae* as an endangered species. As a result of this determination, the Service will remove this species from category 1 in the next plant notice of review and place it in category 3C indicating that it has proved to be more abundant than previously believed.

References Cited

- Armstrong, L. and J.L. England. 1993. Status survey for *Lepidium montanum* var. *stellae*. Bureau of Land Management and the U.S. Fish and Wildlife Service. Salt Lake City, Utah. 3 pp.
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- Welsh, S.L. and K.H. Thorne. 1992. Report of Bureau of Land Management Sensitive Plant Species, Western Kane County, Utah. Unpublished report prepared for the Bureau of Land Management, Salt Lake City, Utah. iv+56 pp.

Authors

The primary authors of this notice are John L. England, U.S. Fish and Wildlife Service, Salt Lake City, Utah (801/975-3630), and Harold M. Tyus, U.S. Fish and Wildlife Service, Denver Regional

Office, Denver, Colorado (303/236-7398).

Authority

The Authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: September 23, 1993.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93-24382 Filed 10-5-93; 8:45 am]

BILLING CODE 4310-65-P

50 CFR Part 17

RIN 1018-AC09

Endangered and Threatened Wildlife and Plants; Proposal To Determine the Plant *Pediocactus Winkleri* (Winkler Cactus) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to determine *Pediocactus winkleri* (Winkler cactus) an endangered species. *P. winkleri* is endemic to a specific soil type in lower elevations of the Fremont River and Muddy Creek drainages of south-central Utah. Six populations of *P. winkleri* cactus are known. These populations total about 3,500 plants that grow on about 80 hectares (200 acres) of habitat. *P. winkleri* is threatened by plant collecting and by habitat disturbances due to mining, recreation, and livestock. Listing *P. winkleri* as an endangered species would provide protection under the authority of the Endangered Species Act of 1973, as amended.

DATES: Comments from interested parties must be received by December 6, 1993. Public hearing requests must be received by November 22, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 2060 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104. Comments and materials received will be available for public inspection, by appointment, during normal business hours.

FOR FURTHER INFORMATION CONTACT: John L. England (see **ADDRESSES** section above) at (801) 975-3630.

SUPPLEMENTARY INFORMATION:

Background

Pediocactus winkleri Heil (Winkler cactus) was discovered by Agnes Winkler in the early 1960's. It was first

described in the scientific literature by Dr. Kenneth Heil from specimens he collected in the vicinity of Notom, Utah, during 1977 and 1978 (Heil 1979). *Pediocactus* includes *P. winkleri* and seven other species (Arp 1972; Heil et al. 1981; Benson 1982). These extant species of *Pediocactus* appear to be relics of a larger and more widespread genus whose distribution may have been fractured by climatic changes (Benson 1982).

P. winkleri is a small globose cactus with stems 2.5 to 6.4 cm (1 to 2.5 in) long, and up to 5.1 cm (2 in) in diameter. It has spine clusters of 9 to 11 small radial spines with fine, woolly hairs at the base. The peach or pink colored flowers of *P. winkleri* are urn shaped, 1.8 to 2.5 cm (0.7 to 1 in) long and 1.8 to 3.8 cm (0.7 to 1.5 in) in diameter. The fruit is barrel shaped with shiny black seeds (Heil 1979; Heil et al. 1981; Welsh et al. 1987).

P. winkleri occurs in six populations that total about 3,500 plants (Heil 1984; Neese 1987; Kass 1990; U.S. Fish and Wildlife Service 1990). *P. winkleri* is a plant of *Atriplex* (saltbush)-dominated desert shrub communities, and it usually grows on the tops and sides of rocky alkaline hills or benches (Heil 1984). It grows in soils that have a silt or clay component and that are primarily derived from the Dakota geologic formation (Neese 1987).

The range of *P. winkleri* forms a narrow arc which extends from Notom in central Wayne County to Hartnet Draw in southwestern Emery County, Utah. The range of the plant extends for about 48 km (30 mi), but Service biologists estimate that the actual area occupied by the plant is about 80 hectares (200 acres). About 500 plants grow on Capitol Reef National Park (Park), but the remainder grow on lands managed by the Bureau of Land Management (BLM) that lie just east of the Park.

The range of *P. winkleri* approaches populations of the listed endangered cactus *P. despainii* (San Rafael cactus). *P. despainii* and *P. winkleri* are presently classified as separate species, but phylogenetically, these two plants may be closely related. It is possible that future taxonomic revisions of *Pediocactus* may classify both plants as subspecies of *P. winkleri*, the first of the two species to be described in the scientific literature (Heil 1979; Welsh and Goodrich 1980). However, attempts to artificially hybridize the two species in domestic gardens have not been successful (Kenneth Heil, San Juan College, New Mexico, pers. comm., 1993), suggesting that the present

taxonomic classification of this species is accurate.

In this proposed listing action, the Service recognizes *P. winkleri* as a species distinct from *P. despainii*. If these species are later recognized as subspecies, their designation as endangered species will remain valid because section 3(15) of the Endangered Species Act (Act), as amended (16 U.S.C. 1531 *et seq.*), permits the listing of subspecies.

Federal Government actions relating to this species began with section 12 of the Endangered Species Act of 1973 which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered endangered, threatened, or extinct. This report, House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) formally accepting the report as a petition under section 4(c)(2) of the Act (now section 4(b)(3)) and acknowledging its intention to review the taxa for possible listing.

P. winkleri was not included in the 1975 notice, but it was included as a new candidate in a notice published in the *Federal Register* of December 15, 1980 (45 FR 82460). *P. winkleri* was included as a category 1 species, i.e., it was considered a species for which the Service had substantial information on its biological vulnerability and threats to its existence to support a proposal to list it as an endangered or threatened species.

Section 4(b)(3)(B) of the 1982 amendments to the Act required the Secretary of the Interior to make a finding within 1 year of receiving a listing petition as to whether the listing is warranted, warranted but precluded by other pending proposals of higher priority, or not warranted. In the case of a "warranted but precluded" finding, another finding is required each year thereafter until the petitioned taxa are either proposed for listing or a final "not warranted" finding is made.

Section 2(b)(1) of the 1982 amendments further required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. To facilitate making the necessary annual "warranted but precluded" findings on several thousand plant taxa, the Service made an administrative decision to treat all the plant candidates in category 1 and category 2 at that time as if their listings had been petitioned on October 13, 1982. This included species such as *P. winkleri* which were included as candidates in the 1980 notice of review but which were never the subject of a

petition. As a result of the administrative decision to treat these species as petitioned, *P. winkleri* was included in annual warranted but precluded petition findings, the first published on October 13, 1983, and then in each successive year thereafter.

In a 1983 supplemental notice (48 FR 53640), the Service changed the status of *P. winkleri* from category 1 to category 2 as a result of a careful review of status information. Category 2 comprises taxa for which the Service has information indicating the appropriateness of a proposal to list the taxa as endangered or threatened, but for which more substantial data are needed on biological vulnerability and threats.

On September 27, 1985, the Service published a notice of review (50 FR 39526) replacing the 1980 notice and its 1983 supplement. This notice of review included *P. winkleri* as a category 1 species, a change resulting from a status survey for *P. winkleri* (Heil 1984) which documented vulnerability and threats to this species. The Service published its last notice of review on February 21, 1990 (55 FR 6184), which included *P. winkleri* as a category 1 species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *P. winkleri* Heil (Winkler cactus) are as follows:

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

The small, restricted populations of *P. winkleri* make it highly vulnerable to human-caused environmental disturbances. Although the exact size of historical range of this species is unknown, its known habitat has been adversely affected by off-road vehicles and trampling by livestock (Heil 1984, 1987; Neese 1987; Bruce MacBryde, U.S. Fish and Wildlife Service, pers. comm., 1990). The plant shrinks into the ground during portions of the year, and this shrinking affords it some protection from light trampling by humans and soft-wheeled vehicles. However, the plant forms buds at ground level in autumn that persist over the winter and become flowers the following spring (Heil et al. 1981). These flowering buds

are very vulnerable to surface disturbance, and if damaged, reproductive capacity of the plant is lost or diminished.

One of the larger populations of *P. winkleri* is located on sparsely vegetated slopes of the oystershell reef near Notom, Utah, an area used as an off-road vehicle recreation area. Off-road vehicle use and livestock trampling has destroyed plants in this population and has had negative impacts on its habitat within the Park (Heil 1984, Heil 1987, Neese 1987). The remaining habitat of *P. winkleri* outside of the Park also is experiencing impacts from off-road vehicle activity.

Livestock trampling has affected all the *P. winkleri* populations in and near the Park (the Park is not closed to livestock grazing). Human foot traffic and vehicular traffic off established roadways within the Park also is affecting the *P. winkleri* population there (Heil 1987).

P. winkleri habitat may contain uranium ore and gypsum deposits. Surface disturbance by annual assessment work on mineral claims for uranium, gypsum, and other minerals has the potential for adversely impacting this species and its habitat. In addition, mineral extraction poses a great threat to the plant in some areas.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

P. winkleri is an attractive small cactus, especially when it is in flower. It is sought by collectors, and it has been commercially exploited for horticultural purposes. In the Notom area, it is estimated that about 80 percent of the plants have been taken by plant collectors in the last 10 years.

Cactus collectors are very active in the Colorado Plateau, and they often go from the habitat of one species of *Pediocactus* to the next so they can collect a complete set (Heil, pers. comm., 1992; McBryde, pers. comm., 1992).

C. Disease or Predation

The effect of livestock grazing on *P. winkleri* is unknown. Because of its small size and the shortness of its spines, this species of cactus is less protected from animals than other, spinier cactus species. The effects of livestock grazing on desert vegetation may produce indirect impacts on *P. winkleri* populations. This species is susceptible to infestations of beetle larvae (Service 1990).

D. The Inadequacy of Existing Regulatory Mechanisms

No Federal or State laws or regulations directly protect *P. winkleri* or its habitat. This plant is found scattered over desolate country, and this makes protecting it from collectors very difficult, even in the Park. Livestock grazing continues in the Park and in other areas with a resultant continued loss of plants.

The species is listed in Appendix 1 of The Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES import permits and export permits are required for international trade in Appendix I species and permits generally are not allowed for primarily commercial shipments.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The very low population size and restricted habitat of *P. winkleri* makes the species vulnerable to human disturbances to its habitat. These disturbances also can exacerbate catastrophic climatic disturbances to the plant. It is not known if its populations are at levels which would ensure their continued long-term existence. However, its numbers are sufficiently small that future losses may soon result in loss of population viability.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *P. winkleri* as an endangered species. In making this determination, the Service has decided that listing this species as endangered would be more appropriate than listing this species as threatened because *P. winkleri* is in danger of extinction throughout all or a significant portion of its range. With less than 3,500 known plants in 6 known locations, further taking by plant collectors could significantly lower its numbers. Surface disturbances are impacting the ecosystem in which the species occurs and are likely to increase in the future, especially recreational off-road vehicle use. The plant is very rare, and only about 500 plants occur within the Park, where it is subject to general collecting prohibition. For the reasons given below, it would not be prudent to propose critical habitat.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the

Secretary of the Interior propose critical habitat at the time a species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *P. winkleri*.

As noted in Factor B, "Summary of Factors Affecting the Species", *P. winkleri* is threatened by taking, an activity only regulated by the Act with respect to endangered plants in cases of removal and reducing to possession from areas under Federal jurisdiction; malicious damage or destruction to endangered plants on Federal lands; and removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps (a requirement if critical habitat is determined) would make *P. winkleri* more vulnerable to taking and increase enforcement problems. Therefore, it would not be prudent to determine critical habitat for *P. winkleri*.

All appropriate parties have been notified of the location and importance of protecting habitat of this species. Protection of *P. winkleri* habitat will be addressed through the recovery process and through Section 7(a) of the Act, as amended, which requires Federal Agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal Agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal Agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal Agencies to confer informally with the Service on any action that is likely to

jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal Agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal Agency must enter into formal consultation with the Service.

Most of the population of *P. winkleri* is on Federal lands that are managed by the BLM, with the remainder on the Park, which is managed by the National Park Service. Both of these Federal Agencies would be responsible for insuring that all activities and actions on lands they manage are not likely to jeopardize the continued existence of *P. winkleri*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, the Act prohibits the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

Because of horticultural interest in *P. winkleri*, trade permits may be sought but few, if any, trade permits for plants of wild origin would ever be issued. Plants of cultivated origin are available and permits may, under certain circumstances, be issued for trade in those. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive,

room 432, Arlington, Virginia 22203, telephone (703) 358-2104.

On July 29, 1983, *P. winkleri* was included in Appendix I of CITES. The effect of this action is that both export and import permits are generally required before international shipment of this species may occur. Such shipment is strictly regulated by CITES party nations to prevent effects that may be detrimental to the species' survival. Generally, the import or export cannot be allowed if it is for primarily commercial purposes. If plants are certified as artificially propagated, however, international shipment requires only export documents under CITES, and commercial shipments may be allowed.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible.

Therefore, comments or suggestions regarding any aspect of this proposal are hereby solicited from the public, other governmental agencies, the scientific community, industry, or other interested parties. Comments are particularly sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *P. winkleri*;
 - (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 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.
- Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the

Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, Salt Lake City, Utah (see ADDRESSES section above).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

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Neese, E. 1987. Habitat Inventory of *Sclerocactus wrightiae* and Other Associated Sensitive Species. Final Report. Vol. 1—Text and Photographs. U.S. Department of the Interior, Bureau of Land Management, Richfield, Utah. 119 pp.

U.S. Fish and Wildlife Service. 1990. 1990 Annual Status Report for *Pediocactus winkleri*. Salt Lake City, Utah. 4 pp.

Welsh, S.L., and S. Goodrich. 1980. Miscellaneous Plant Novelties From Alaska, Nevada, and Utah. *Great Basin Naturalist* 40:78-88.

Welsh, S.L., N.D. Atwood, L.C. Higgins, and S. Goodrich. 1987. A Utah Flora. *Great Basin Naturalist Memoirs* 9:1-894.

Author

The primary author of this proposed rule is John L. England, Botanist, U.S. Fish and Wildlife Service, Salt Lake City, Utah, telephone (801) 975-3630 (see ADDRESSES above).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

- 1. The authority citation for part 17 continues to read as follows:
Authority: 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.
- 2. § 17.12(h) is amended by adding the following, in alphabetical order under Cactaceae, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.
 * * * * *
 (h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
<i>Pediocactus winkleri</i>	Winkler cactus	U.S.A. (UT)	E	NA	NA

Dated: September 24, 1993.
 Richard N. Smith,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 93-24384 Filed 10-5-93; 8:45 am]
 BILLING CODE 4310-55-P

50 CFR Part 17

RIN 1018-AC00

Endangered and Threatened Wildlife and Plants; Public Hearing and Extension of Public Comment Period on Proposed Endangered Status for Four Plants and Threatened Status for Four Plants From Vernal Pools From the Central Valley of California

AGENCY: Fish and Wildlife Service, Interior.

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

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), announces a public hearing and extension of comment period on the proposed determination of endangered status for *Orcuttia inaequalis* (San Joaquin Valley Orcutt grass), *Orcuttia pilosa* (hairy Orcutt grass), *Orcuttia viscida* (Sacramento Orcutt grass), and *Tuctoria greenei* (Green's tuctoria) and threatened status for *Castilleja campestris* ssp. *succulenta* (fleshy owl's-clover), *Chamaesyce hooveri* (Hoover's spurge), *Neostapfia colusana* (Colusa grass), and *Orcuttia tenuis* (slender Orcutt grass). During the public hearing, the Service will allow all interested parties to present oral testimony on the proposed rule. Written comments on the proposal will be accepted until November 18, 1993.

DATES: The public hearing will be held from 6 to 8 p.m. on November 3, 1993, in Sacramento, California. The Service will accept written comments on the proposed rule until November 18, 1993. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Hyatt Regency Hotel, 1209 "L" Street, Sacramento, California. Written comments and materials concerning this proposal should be sent to the Sacramento Field Office, 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:

Ken Fuller (see ADDRESSES section) or at 916-978-4866.

SUPPLEMENTARY INFORMATION:

Background

Castilleja campestris ssp. *succulenta*, *Chamaesyce hooveri*, *Neostapfia colusana*, *Orcuttia inaequalis*, *Orcuttia pilosa*, *Orcuttia tenuis*, *Orcuttia viscida*, and *Tuctoria greenei* are annual species restricted to vernal pools and swales in the Central Valley of California. These 8 plants are found sporadically in 14 counties. These plants face ongoing threats from one or more of the following: commercial, residential or agricultural development, flood control projects, hydrological changes in vernal pool and swale habitat, overgrazing, competition from nonnative weeds, landfill projects, road developments, and inadequate regulatory mechanisms. A proposal to list these eight plants was published in the Federal Register on August 5, 1993 (58 FR 41700).

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. In response to the proposed rule, William Hazeltine, Environmental Consultant, Oroville, California, requested a public hearing in a letter dated August 16, 1993. As a result, the Service has scheduled a public hearing on November 3, 1993, from 6 to 8 p.m. at the Hyatt Regency Hotel, in Sacramento, California. Parties wishing to make statements for the record should bring a copy of their statements to 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 carry the same weight as oral comments. The comment period closes on November 18, 1993. Written comments should be submitted to the Service in the ADDRESSES section.

Author

The primary author of this notice is Ken Fuller (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act of 1973 (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: September 28, 1993.

William E. Martin,

Acting Regional Director.

[FR Doc. 93-24499 Filed 10-5-93; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 93094-3246; ID 090993A]

RIN 0648-AE58

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 5 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Amendment 5 would impose a 3-year moratorium on additional participants in the Gulf of Mexico reef fish fishery who may use fish traps; require each fish trap or string of traps to be marked with a floating buoy; require that fish traps be returned to port at the completion of the tending vessel's trip; increase the minimum allowable size of red snapper, currently 13 inches (33.0 centimeters (cm)), in one-inch increments every other year commencing January 1, 1994, until the minimum allowable size is 16 inches (40.6 cm), effective January 1, 1996; require all finfish, other than bait and oceanic migratory species, possessed in the exclusive economic zone (EEZ) to be maintained with head and fins intact through landing; close Riley's Hump, southwest of Dry Tortugas, Florida, to all fishing during May and June each year; create special management zones (SMZs) in the EEZ off Alabama in which fishing for reef fish would be limited to hook-and-line gear having no more than three hooks per line and spearfishing gear; and add the establishment or modification of SMZs, and the gear allowed in each, to the management measures that may be adjusted via a framework procedure.

In addition, NMFS proposes to amend the regulations to add the boundary between the Gulf of Mexico EEZ and the Atlantic Ocean EEZ; remove the procedures for obtaining permits by persons fishing from structures; clarify