

About the Document:

Title: Proposed Rule to List the Shovelnose Sturgeon as Threatened Due to Similarity of Appearance

Timeline of the Peer review:

Draft document disseminated: September 21, 2009

Peer review initiated: September 21, 2009

Peer review to be completed by: November 23, 2009 (i.e., close of the comment period)

Final determination regarding proposed rule expected: Prior to September 21, 2010

About the Peer Review Process:

In accordance with our July 1, 1994 peer review policy ([59 FR 34270](#)) and the Office of Management and Budget's December 16, 2004 [Final Information Quality Bulletin for Peer Review](#), we will solicit independent scientific reviews of the information contained in our proposal to list the shovelnose sturgeon as threatened due to similarity of appearance. This review will occur concurrently with the public comment period for the proposed rule.

The Service requested that the Pallid Sturgeon Recovery Team (species experts representing State and Federal agencies and academia involved in pallid sturgeon recovery) nominate potential peer reviewers. We request that these groups consider the following criteria for any potential nomination.

- **Expertise:** The reviewer should have knowledge or experience with pallid sturgeon, *Scaphirhynchus albus*, or shovelnose sturgeon, *S. platyrhynchus*, or similar species biology.
- **Independence:** The reviewer should not be employed by the U.S. Fish and Wildlife Service. Academic, consulting or government scientists should have sufficient independence from the Service if the government supports their work.
- **Objectivity:** The reviewer should be recognized by his or her peers as being objective, open-minded, and thoughtful. In addition, the reviewer should be comfortable sharing his or her knowledge and perspectives and openly identifying his or her knowledge gaps.
- **Conflict of Interest:** The reviewer should not have any financial or other interest that conflicts or that could impair his or her objectivity or create an unfair competitive advantage. If an otherwise qualified reviewer has an

unavoidable conflict of interest, the Service may publicly disclose the conflict.

While expertise is the primary consideration, the Service will select peer reviewers (considering, but not limited to, these nominations) that add to a diversity of scientific perspectives relevant to the proposed rule to list the shovelnose sturgeon as threatened due to similarity of appearance. Responses will be requested by the close of the comment period. We will not be providing financial compensation to peer reviewers. We will solicit reviews from at least five qualified experts.

The Service will provide each peer reviewer with a letter explaining their role and instructions for fulfilling that role, the proposed rule, a list of citations, and the referenced documents (or in the case of some longer documents, the relevant pages of the document) in an electronic format, on a CD. The purpose of seeking independent peer review is to ensure use of the best scientific and commercial information available and to ensure and to maximize the quality, objectivity, utility, and integrity of the information upon which the proposed action is based, as well as to ensure that reviews by recognized experts are incorporated into the rulemaking process. Peer reviewers will be advised that they are not to provide advice on policy. Rather, they should focus their review on identifying and characterizing scientific uncertainties. Peer reviewers will be asked to answer questions pertaining to the logic of our assumptions, arguments, and conclusions and to provide any other relevant comments, criticisms, or thoughts. Specific questions put to the reviewers include the following:

1. Is our description and analysis of the available data relevant to sturgeon harvest accurate?
2. Does the proposed rule provide accurate and adequate review and analysis of the factors relating to a similarity of appearance listing including whether:
 - a. The species so closely resembles in appearance a listed endangered or threatened species that law enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;
 - b. The effect of this substantial difficulty is an additional threat to an endangered or threatened species; and
 - c. Such treatment of an unlisted species will substantially facilitate the enforcement and further the purposes of the Act.
3. Are the conclusions we reach logical and supported by the evidence we provide?
4. Did we include all the necessary and pertinent literature to support our assumptions/arguments/conclusions?
5. Will the draft proposed rule to list the shovelnose sturgeon as threatened due to similarity of appearance be effective in facilitating law enforcement actions to protect and conserve pallid sturgeon and facilitate species recovery by conserving adult pallid sturgeon?

Peer reviewers will provide individual, written responses to the Service. Peer reviewers will be advised that their reviews, including their names and affiliations, will (1) be included in the administrative record of our final determination regarding this proposal (i.e., a final rule or a withdrawal), and (2), once all are completed, will be available to the public upon request. We will summarize and respond to the issues raised by the peer reviewers in a special section of the final rulemaking determination. Because this peer review process is running concurrently with public review of the proposed action, peer reviewers will not be provided public comments (although comments may be viewed through <http://www.regulations.gov>). A final determination regarding this proposed action is expected approximately a year after the proposed rule publishes.

About Public Participation

The peer review process will be initiated shortly. The public may comment on the approach of this peer review through the normal comment process associated with the proposed rule. Public comments are scheduled to be accepted until November 23, 2009. You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow instruction for submitting comments to Docket No. FWS–R6–ES–2009–0027.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS–R6–ES–2009–0027; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section of the proposed rule for more information).

Contact

For more information, contact George Jordan at 406-247-7365.