

western sage grouse, and there are few other mechanisms that regulate grazing practices or the conversion of native habitats on privately owned lands.

The Service is currently assisting with development of a county-wide Habitat Conservation Plan (HCP) for private lands in central Washington (Foster Creek Conservation District, Douglas County). When completed, the HCP will include measures to protect the northern subpopulation of the Columbia Basin DPS. However, the Act does not provide regulatory protections for unlisted species during development of HCPs (USDI 1996).

Some illegal or accidental shooting of western sage grouse may occur in Washington in association with hunting seasons for other upland game species. However, the state hunting moratorium and hunting regulations implemented by the Army at the YTC appear to be sufficient to control this form of mortality, and it is not likely to significantly influence the viability of the Columbia Basin DPS (Schroeder pers. comm. 1999; Pounds pers. comm. 1999).

The Army implements a number of regulations at the YTC to promote environmental protection of the installation's natural resources. However, various impacts to the habitats important to western sage grouse occur, and are primarily the result of training-related fire and direct damage to vegetation communities from training maneuvers (see above).

(5) *Other natural or human-caused factors affecting the DPS' continued existence.* The fragmented, isolated nature of the Columbia Basin DPS is a concern for conservation of the taxon within the Columbia Basin ecosystem. A preliminary viability analysis conducted by the WSGWG (1998) indicates that neither subpopulation is likely viable over the long term (approximately 100 years). In addition to the relatively large-scale impacts on native shrub steppe habitats (above), other naturally occurring impacts and human influences of lesser magnitude may pose threats to the Columbia Basin's isolated subpopulations. Potential risks include direct impacts to individuals from inclement weather conditions, altered predator demographics or behavior, agricultural practices (e.g., cultivation, harvest, etc.), vehicle collisions, pest control measures, scientific investigations, and military training (e.g., smoke obscurant and live-fire exercises, etc.). Impacts may also result from indirect disturbance of the subpopulations caused by agricultural and grazing activities, transportation corridors, recreation, and military

training events (over-flights, troop movements, etc.). Small, isolated populations may also be at greater risk to the effects of inbreeding (Benedict *et al.* 2001, Oyler-McCance *et al.* in litt. 2001). Although it is unlikely that any one of these factors have played a significant role in the population declines and range reductions of western sage grouse, these combined influences may now play an important role in the dynamics of the relatively small and isolated subpopulations that make up the Columbia Basin DPS.

#### Finding

We reviewed the petition, information available in our files, other published and unpublished information submitted to us during the public comment period following our 90-day petition finding and consulted with recognized prairie grouse experts and other federal, state, and tribal resource agencies within the historic range of western sage grouse. On the basis of the best scientific and commercial information available, we find that listing the Columbia Basin DPS of western sage grouse as threatened is warranted, but precluded by higher priority listing actions.

In making this finding, we recognize that there have been declines in the distribution and abundance of western sage grouse throughout the Columbia Basin, primarily attributed to the loss and degradation of native shrub steppe habitats. These impacts are likely due to a combination of factors including crop production, fire, military training, overgrazing by livestock, rural and suburban development, and dam construction. The Columbia Basin DPS of western sage grouse is also at increased risk from inbreeding depression and random environmental influences due to its small size and level of fragmentation. We also recognize that various state and Federal agencies in Washington and Oregon, and throughout the species' historic distribution, are actively managing the birds to try to improve their overall population status and/or attempting to restore them to currently unoccupied habitats.

Due to a backlog of listing decisions and funding constraints, a proposed rule to list the Columbia Basin DPS of western sage grouse will be developed in accordance with our October 22, 1999, (or subsequent) LPG (64 FR57114). Under the LPG, we prioritize our listing activities based upon the magnitude of threats to a listable entity, followed by the immediacy of the threats, and, finally, by the taxonomy of an entity (i.e., monotypic genus, followed by species, then subspecies / DPS). The two subpopulations of the

Columbia Basin DPS are subject to different threats of varying magnitude. However, we conclude that the overall magnitude of threats to the Columbia Basin DPS of western sage grouse is moderate, and that the overall immediacy of these threats is imminent. Under our listing and recovery priority guidance (48 FR 43098), a DPS for which threats are moderate and imminent is assigned a Listing Priority Number of 9.

We intend that any proposed listing action for the Columbia Basin DPS of western sage grouse will be as accurate and effective as possible. Therefore, we will continue to accept additional information and comments from other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

#### References Cited

A complete list of references cited herein is available upon request from the Upper Columbia Fish and Wildlife Office (see ADDRESSES section).

#### Author

This document was prepared by Chris Warren, Upper Columbia Fish and Wildlife Office (see ADDRESSES section).

#### Authority

The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 30, 2001.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 010319074-1104-02; I.D. 022201B]

RIN 0648-AP13

#### Atlantic Highly Migratory Species (HMS) Fisheries; Pelagic Longline Management

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** NMFS withdraws its proposal to extend the closure of the Charleston Bump area to pelagic longline fishing

through May 31, 2001. Through a previously issued final rule, the Charleston Bump area remains closed to pelagic longline fishing annually from February 1 through April 30.

**DATES:** The proposed rule published on March 30, 2001 (66 FR 17389), is withdrawn as of May 2, 2001.

**ADDRESSES:** Copies of the Final Environmental Assessment and Regulatory Impact Review that accompany this notification of withdrawal can be obtained from Christopher Rogers, Acting Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, NMFS, at (301) 713-2347 or by email at [karyl.brewster-geisz@noaa.gov](mailto:karyl.brewster-geisz@noaa.gov), or Jill Stevenson, NMFS-Southeast Regional Office at (727) 570-5447 or by email at [jill.stevenson@noaa.gov](mailto:jill.stevenson@noaa.gov).

**SUPPLEMENTARY INFORMATION:** A final rule (65 FR 47214, August 1, 2000) to implement a regulatory amendment to the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks included a provision to close the Charleston Bump area to pelagic longline fishing on an annual basis from February 1 through April 30. NMFS subsequently delayed the effective date of the closed area for 2001 to March 1 to correct the coordinates of the closed areas and to distribute this information to affected fishermen and law enforcement (66 FR 8903, February 5, 2001). On March 30, 2001, NMFS proposed to extend the closure period of the Charleston Bump area through May 31, 2001 (66 FR 17389).

The intent of the proposed action was to partially recover environmental benefits in terms of bycatch reduction that were likely lost when the closure was delayed from February 1, 2001, until March 1, 2001. In a draft Environmental Assessment prepared in support of the proposed action, NMFS evaluated the costs and benefits of the extension consistent with the objectives of the final rule previously implementing the seasonal closure. The proposed action would not have affected the closure dates for the Charleston Bump area in future years. NMFS requested comments from the public and held a public hearing on April 3, 2001.

NMFS received many comments on the proposed rule. Some of the comments supported the proposed rule and noticed the environmental benefits in terms of bycatch reduction. Other comments did not support the proposed

rule and stated that the proposed extension would have little impact over the long-term to these fish on a stock-wide basis and that the extension has no scientific basis. NMFS also received comments stating that the extension should last through the month of June to recoup lost bycatch reduction benefits for the delay of the East Florida Coast closure as well as the delay of the Charleston Bump closure. Additional comments noted that NMFS' estimates of the number of vessels that fish in February in the Charleston Bump is high, especially for this year due to bad weather, and that fishermen should not be punished because NMFS made an error.

NMFS also received comments regarding the economic impacts that the proposed extension could have on the fishermen and dealers in the Charleston Bump area. These comments included: fishermen fishing in the Charleston Bump in May and June target dolphin fish, not swordfish; dolphin fish fishing costs less (shorter leaders, no lightsticks, less bait, etc.) and, therefore, profits are higher in May than any other time of year; 25 percent of a fisherman's annual income is received in May; the Small Business Administration has declared South Carolina a disaster area due to the shrimp fishery failure and an extension would further exacerbate the problem for these communities; the short notice of the extension would not give fishermen sufficient time to adjust fishing patterns to minimize economic and social impacts; fishermen and dealers around both the Charleston Bump and East Florida Coast have been relying on and planning for the area to reopen on May 1 since the closure dates were announced last August; and recreational fishing is economically valuable to the communities and any reduction in longline bycatch could benefit the communities especially given the tournaments that open in May.

NMFS also received miscellaneous comments that included: the comment period was too short given the length of a longline trip; U.S. fishermen already take voluntary action to reduce bycatch and additional regulations may have negative impacts in negotiating conservation measures internationally; if NMFS closes the Charleston Bump for an extended period, fishermen will be forced to fish offshore even if it is unsafe to do so; NMFS should evaluate the effectiveness of existing closures before proposing new ones; and NMFS needs to research and implement other methods of bycatch reduction and VMS.

NMFS is concerned about bycatch and bycatch mortality in all Atlantic highly migratory species fisheries and

will continue to evaluate existing bycatch reduction measures as well as pursue additional measures as necessary. However, due to the large economic impacts extending the closure could have, the short time period in which fishermen and dealers would have to adjust fishing patterns to avoid the Charleston Bump, and the fact that NMFS does not know at this time the actual impact on bycatch reduction of both the delay in the Charleston Bump and East Florida coast closures and the actual time/area closures, NMFS has determined that extending the closure of the Charleston Bump area through May 31 is unwarranted.

Additional analyses described in the final Environmental Assessment indicate that while effort in the Charleston Bump was low compared to past years, the fishermen who did fish in February caught slightly more billfish and sea turtles than the average. Thus, extending the closure could possibly regain some of the bycatch reductions that may have been lost due to the delay. However, the degree of bycatch reduction achieved by a May 2001 closure would not contribute significantly to bycatch reduction in the pelagic longline fishery beyond the immediate short-term; on the other hand, the economic impacts from this one-time extension could be very significant for fishermen, particularly in light of the August 1, 2000, final rule. In the August 1, 2000, final rule and its accompanying Final Supplemental Environmental Impact Statement, NMFS determined that it was not necessary to close the Charleston Bump in May in order to achieve the objectives of the final rule and reduce bycatch and bycatch reduction. Despite the delay in the closure of the Charleston Bump, because the objectives of the proposed rule were the same as the August 1, 2000, final rule, NMFS agrees with its earlier decision and feels it is necessary to wait until more data are gathered regarding the result of the existing closures and any bycatch reductions gained before adjusting the August 1, 2000, final rule any further.

NMFS acknowledges that bycatch in the pelagic longline fishery is an international issue that requires international cooperation. The United States is working to develop international conservation measures and will continue to negotiate at the International Commission for the Conservation of Atlantic Tunas in support of U.S. fisheries, to the extent that their prosecution is consistent with U.S. domestic legislation. While NMFS is aware that the comment period for the proposed rule was shorter than 45 days,

the timing of the proposal required a short comment period in the event that final regulations and supporting documents needed to be prepared. Additionally, NMFS agrees that recreational fishing is economically valuable to communities; however, NMFS must manage fisheries consistent with the Magnuson-Stevens Fishery Conservation and Management Act and its implementing guidelines, which

require consideration of traditional fisheries. Safety is the responsibility of each fisherman. While NMFS works to reduce safety concerns related to regulatory actions, fishermen should account for the distance from shore if an area is closed and they redistribute their fishing effort.

#### **Withdrawal of Proposed Rule**

Accordingly, for the reasons stated in the preamble, the proposed rule that

was published in the **Federal Register** on March 30, 2001 (66 FR 17389) is withdrawn.

Dated: May 1, 2001.

**John Oliver,**

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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