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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF995

Initiation of 5-Year Review for the Endangered New York Bight, Chesapeake Bay, Carolina and South Atlantic Distinct Population Segments of Atlantic Sturgeon and the Threatened Gulf of Maine Distinct Population Segment of Atlantic Sturgeon

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

ACTION: Notice of initiation of 5-year review; request for information.

SUMMARY: We, NMFS, announce our intent to conduct a 5-year review for the threatened Gulf of Maine distinct population segment (DPS) of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), the endangered New York Bight DPS of Atlantic sturgeon, the endangered Chesapeake Bay DPS of Atlantic sturgeon, the endangered Carolina DPS of Atlantic sturgeon and the endangered South Atlantic DPS of Atlantic sturgeon under the Endangered Species Act of 1973, as amended (ESA). We are required by the ESA to conduct 5-year reviews to ensure that the listing classification of the species remains accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of such information on the status of each DPS, particularly information on population trends, distribution, abundance, habitat amount and suitability, threats, and conservation measures for any DPS that has become available since their original listings under the ESA in 2012. Based on the results of this 5-year review, we will make the requisite findings

under the ESA.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than *[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. While we will continue to accept new information about any listed species at any time, failure to timely submit the information in accordance with the deadline above may preclude the information from being included in this review.

ADDRESSES: Submit your comments by including NOAA-NMFS-2018-0041, by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal.
 1. Go to *www.regulations.gov/document?D=[NOAA-NMFS-2018-0041]*,
 2. Click the “Comment Now!” icon, complete the required fields
 3. Enter or attach your comments.
- *Mail:* Submit written comments to Lynn Lankshear, NMFS, Greater Atlantic Region Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930 or Andrew Herndon, NMFS, Southeast Regional Office, 263 13th Avenue South, Saint Petersburg, FL 33701.

Instructions: We may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the specified period. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in

the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Lankshear at the above address, by phone at 978-282-8473 or Lynn.Lankshear@noaa.gov or Andrew Herndon at the above address, by phone at 727-824-5312 or Andrew.Herndon@noaa.gov.

SUPPLEMENTARY INFORMATION:

On February 6, 2012, we listed the Gulf of Maine DPS of Atlantic sturgeon as threatened and the New York Bight, Chesapeake Bay, Carolina and South Atlantic DPSs as endangered (77 FR 5880 and 77 FR 5914). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews, under section 4(c)(2)(B), we determine whether a species should be delisted or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) the species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error (see 50 CFR 424.11(d)). A 5-year review ends with a determination of whether the species should be delisted or the listing status changed. A 5-year review does not change the listing status of the species. Changes to the listing status of a species can only be made following publication of a proposed rule with an opportunity for public comment and our consideration of the comments before making a final determination to reclassify or delist the species.

The ESA implementing regulations at 50 CFR 424.21 require that we publish a notice in

the *Federal Register* announcing those species currently under active review. This notice announces our active review of the Gulf of Maine DPS of Atlantic sturgeon currently listed as threatened, and the active review of the New York Bight, Chesapeake Bay, Carolina, and South Atlantic DPSs of Atlantic sturgeon that are currently listed as endangered.

Background information for the Gulf of Maine, New York Bight, and Chesapeake Bay DPSs of Atlantic sturgeon is available on the NMFS GARFO Website:

<https://www.greateratlantic.fisheries.noaa.gov/protected/atlsturgeon/index.html>. Background information for the Carolina and South Atlantic DPSs of Atlantic sturgeon is available on the NMFS SERO Website at: http://sero.nmfs.noaa.gov/protected_resources/sturgeon/index.html.

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting information that has become available since the 2012 listing determination from the public, concerned governmental agencies, tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of each of the five DPSs of Atlantic sturgeon. For example, we are aware that the Atlantic States Marine Fisheries Commission has just completed an Atlantic Sturgeon Benchmark Stock Assessment. This is an example of new information we will consider during our review. Categories of requested information include: (1) species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and suitability; (3) status and trends of identified limiting factors or threats; (4) conservation measures that have been implemented that benefit the species; and (5) other new information, data, or corrections

including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the list of endangered and threatened species, and improved analytical methods for evaluating extinction risk.

Since there are no recovery plans for any of the DPSs, we will analyze the available information for the 5-year review relative to the ESA definitions of endangered and threatened and in the context of the five listing factors. The five factors are: (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) the inadequacy of existing regulatory mechanisms; or, (5) other natural or manmade factors affecting its continued existence.

During the 5-year review, we are also required to consider whether the 1996 DPS policy (61 FR 4722; February 7, 1996) is appropriately applied to the species. The DPS Policy specifies that we consider the available information with respect to three elements. These elements are: (1) the discreteness of the population segment in relation to the remainder of the of the species to which it belongs; (2) the significance of the population segment to the species to which it belong; and (3) the population segment's conservation status in relation to the ESA's standards for listing (i.e., is the population segment endangered or threatened?). Because the five DPSs of Atlantic sturgeon have already been classified as DPSs following the 1996 DPS policy, a re-evaluation of the DPSs will not be necessary, unless there is new information specific to these DPSs relevant to the application of the policy.

If you wish to provide information for this 5-year review, you may submit your information and materials electronically at www.regulations.gov or via mail (see **ADDRESSES**

section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

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

Dated: March 12, 2018.

Angela Somma,
Chief, Endangered Species Division,
Office of Protected Resources,
National Marine Fisheries Service.

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