

Dated: September 15, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[I.D. 101498D]

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List the Swordfish as Endangered and Designate Critical Habitat Under the Endangered Species Act Throughout the North Atlantic Ocean

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

ACTION: Notification of finding.

SUMMARY: NMFS has received a petition to list the swordfish (*Xiphias gladius*) as endangered and to designate critical habitat in the North Atlantic Ocean under the Endangered Species Act (ESA). NMFS finds that the petition does not present substantial scientific information indicating that the petitioned action may be warranted.

DATES: This petition finding was made on October 27, 1998.

ADDRESSES: Copies of the petition may be obtained from the Endangered Species Division, Office of Protected Resources, NMFS, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Terri Jordan or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3) of the ESA contains provisions concerning petitions from interested persons requesting the Secretary of Commerce (Secretary) to list species under the ESA. Section 4(b)(3)(A) requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted. Section 424.14(b)(1) of NMFS' ESA implementing regulations define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (See 50 CFR 424.14). Section 424.14(b)(2) of these regulations contains factors the Secretary considers in evaluating a petitioned action.

On July 14, 1998, the Secretary received a petition dated July 13, 1998,

from Messrs. Jonah Crawford and Max Strahan of Greenworld to list swordfish as endangered and to designate critical habitat in the North Atlantic Ocean. The petitioner cites commercial over-utilization of swordfish and the inadequacy of existing regulatory mechanisms as reasons for population decline. However, the petitioner does not present substantial information with regard to these claims.

NMFS has reviewed the petition and information available in NMFS files. Although fisheries data available to NMFS provide evidence of some decline, (the North Atlantic stock is at 58 percent of its maximum sustainable yield (MSY)) no substantial evidence to indicate that the species may be threatened or endangered exists. The stock is overfished, but this only means that the current biomass cannot produce MSY on a continuing basis. Fishing quotas have been reduced in order to allow the stock to rebuild. Therefore, NMFS finds that the petition does not present substantial information indicating that listing the North Atlantic swordfish may be warranted.

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

Dated: October 27, 1998.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98-29278 Filed 10-28-98; 2:51 pm]

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