

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS-R8-ES-2011-0008]**

**[MO 92210-0-0008]**

**Endangered and Threatened Wildlife and Plants; Initiation of Status Review for  
Longfin Smelt**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Initiation of status review and solicitation of new information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), under the authority of the Endangered Species Act of 1973, as amended (Act), announce the initiation of a status review for the longfin smelt (*Spirinchus thaleichthys*). To ensure that the status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12-month

finding, which will address whether the listing may be warranted, as provided in section 4(b)(3)(B) of the Act.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. After this date, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we may not be able to fully address or incorporate information that we receive after the above requested date.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for Docket No. FWS–R8–ES–2011–0008 and then follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R8–ES–2011–0008; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Field Supervisor, San Francisco Bay-Delta Fish and Wildlife Office, 650 Capitol Mall, Eighth Floor, Sacramento, CA 95814; by telephone at 916-930-5603; or facsimile at 916-930-5654. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

## **SUPPLEMENTARY INFORMATION**

### **Request for Information:**

To ensure the status review is complete and based on the best available scientific and commercial information, we request information on the longfin smelt. We request any additional information from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

- (1) The species' biology, range, and population trends, including:
  - (a) Habitat requirements for feeding, breeding, and sheltering;
  - (b) Genetics and taxonomy;
  - (c) Historical and current range, including distribution patterns;
  - (d) Historical and current population levels, and current and projected trends;and
  - (e) Past and ongoing conservation measures for the species or its habitat.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), which are:

- (a) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (b) Overutilization for commercial, recreational, scientific, or educational purposes;
- (c) Disease or predation;
- (d) The inadequacy of existing regulatory mechanisms; or
- (e) Other natural or manmade factors affecting its continued existence.

(3) The potential effects global climate change may have on the longfin smelt or its habitat.

If, after the status review, we determine that listing the longfin smelt is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, within the geographical range currently occupied by the longfin smelt, we also request data and information on:

(1) What may constitute “physical or biological features essential to the conservation of the species;”

- (2) Where these features are currently found; and
- (3) Whether any of these features may require special management considerations or protection.

In addition, we request data and information on “specific areas outside the geographical area occupied by the species” that are “essential to the conservation of the species.” Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via

*http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Information and supporting documentation that we received and used in preparing this finding is available for you to review at *http://www.regulations.gov*, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, San Francisco Bay-Delta Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

### **Previous Federal Actions**

On August 8, 2007, the Service received a petition from the Bay Institute, the Center for Biological Diversity, and the Natural Resources Defense Council to list the San Francisco Bay-Delta population of the longfin smelt as a distinct population segment (DPS) and to designate critical habitat for the species concurrent with the listing. The petition was clearly identified as a petition for a listing rule and contained the names, signatures, and addresses of the requesting parties. On May 6, 2008, the Service published a 90-day finding (73 FR 24911) in which we concluded that the petition

provided substantial information indicating that listing the San Francisco Bay-Delta Population of the longfin smelt as a distinct populations segment (DPS) may be warranted, and we initiated a status review. On April 9, 2009, the Service published a 12-month finding (74 FR 16169) on the petition to list the San Francisco Bay-Delta population of the longfin smelt as a DPS and designate critical habitat for the species concurrent with the listing. We determined that the San Francisco Bay-Delta population of the longfin smelt did not meet the discreteness criterion of our Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DPS policy) (February 7, 1996, 61 FR 4721), and therefore we did not undertake a significance review, since it is not a valid DPS.

On November 13, 2009, the Center for Biological Diversity (CBD) filed a complaint in the U.S. District Court for the Northern District of California, challenging the Service on the merits of the 2009 determination. On February 1, 2011, the Service settled with the Center for Biological Diversity and agreed to conduct a range-wide 12-month finding to be published by September 30, 2011.

You may obtain copies of the 2009 determination, and other previous Federal actions relating to the longfin smelt, by mail from the San Francisco Bay-Delta Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section); on the Internet at <http://www.fws.gov/sfbaydelta/>; or by visiting the Federal eRulemaking Portal at <http://www.regulations.gov>.

## **Authors**

The primary authors of this notice are the staff members of the San Francisco Bay-Delta Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 2, 2011

Signed:

Gregory E. Siekaniec

Acting Director, U.S. Fish and Wildlife Service

**Billing Code 4310-55-P**

~~[FR Doc. 2011-5424 Filed 03/09/2011 at 8:45 am; Publication Date: 03/10/2011]~~