

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AI23

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 226**

[Docket No.; I.D. 020522126-3051-02]

RIN 0648-AQ03

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Gulf Sturgeon

AGENCY: Fish and Wildlife Service (FWS), Interior, and National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: We, FWS and NMFS, collectively "the Services," designate critical habitat for the Gulf sturgeon (*Acipenser oxyrinchus desotoi*), a threatened species listed under the Endangered Species Act of 1973, as amended (Act). We designate 14 geographic areas among the Gulf of Mexico rivers and tributaries as critical habitat for the Gulf sturgeon. These 14 geographic areas (units) encompass approximately 2,783 river kilometers (rkm) (1,730 river miles (rmi)) and 6,042 square kilometers (km²) (2,333 square miles (mi²)) of estuarine and marine habitat.

Critical habitat identifies specific areas that are essential to the conservation of a listed species, and that may require special management considerations or protection. Section 7(a)(2) of the Act requires that each Federal agency shall, in consultation with and with the assistance of the Services, insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat. Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat. We solicited data and comments from the public on all aspects of the proposal, including data on economic and other impacts of the designation.

DATES: The effective date of this rule is April 18, 2003.

ADDRESSES: The complete administrative record, including comments and materials received, as well as supporting documentation, used in the preparation of this final rule are available for public inspection, by appointment, during normal business hours at the Panama City Field Office, U.S. Fish and Wildlife Service, 1601 Balboa Avenue, Panama City, Florida 32405. Copies of the final rule, economic analysis, and information regarding this critical habitat designation are available on the Internet at <http://alabama.fws.gov/gsl/>.

FOR FURTHER INFORMATION CONTACT: Gail Carmody, Field Supervisor, Panama City Field Office (see **ADDRESSES** section) (telephone 850/769-0552; facsimile 850/763-2177), or Stephania Bolden, Fishery Biologist, National Oceanic and Atmospheric Administration (NOAA) Fisheries, Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida 33702 (telephone 727/570-5312; facsimile 727/570-5517). Information regarding this designation is available in alternate formats upon request.

SUPPLEMENTARY INFORMATION:**Background**

The Gulf sturgeon (*Acipenser oxyrinchus (=oxyrhynchus) desotoi*), also known as the Gulf of Mexico sturgeon, is an anadromous fish (breeding in freshwater after migrating up rivers from marine and estuarine environments), inhabiting coastal rivers from Louisiana to Florida during the warmer months and overwintering in estuaries, bays, and the Gulf of Mexico. It is a nearly cylindrical primitive fish embedded with bony plates or scutes. The head ends in a hard, extended snout; the mouth is inferior and protrusible and is preceded by four conspicuous barbels. The tail (caudal fin) is distinctly asymmetrical, the upper lobe is longer than the lower lobe (heterocercal). Adults range from 1.2 to 2.4 meters (m) (4 to 8 feet (ft)) in length, with adult females larger than males. The Gulf sturgeon is distinguished from the geographically disjunct Atlantic coast subspecies (*A. o. oxyrinchus*) by its longer head, pectoral fins, and spleen (Vladykov, 1955; Wooley, 1985). King *et al.* (2001) have documented substantial divergence between *A. o. oxyrinchus* and *A. o. desotoi* using microsatellite DNA testing.

Distribution and Status

Historically, the Gulf sturgeon occurred from the Mississippi River east to Tampa Bay. Its present range extends

from Lake Pontchartrain and the Pearl River system in Louisiana and Mississippi east to the Suwannee River in Florida. Sporadic occurrences have been recorded as far west as the Rio Grande River between Texas and Mexico, and as far east and south as Florida Bay (Wooley and Crateau, 1985; and Reynolds, 1993).

In the late 19th century and early 20th century, the Gulf sturgeon supported an important commercial fishery, providing eggs for caviar, flesh for smoked fish, and swim bladders for isinglass, a gelatin used in food products and glues (Huff, 1975; and Carr, 1983). Gulf sturgeon numbers declined due to overfishing throughout most of the 20th century. The decline was exacerbated by habitat loss associated with the construction of water control structures, such as dams and sills (submerged ridge or vertical wall of relatively shallow depth separating two bodies of water), mostly after 1950. In several rivers throughout the species' range, dams have severely restricted sturgeon access to historic migration routes and spawning areas (Boschung, 1976; Wooley and Crateau, 1985; and McDowall, 1988).

On September 30, 1991, we listed the Gulf sturgeon as a threatened species under the Act (16 U.S.C. 1531 *et seq.*) (56 FR 49653). Other threats and potential threats identified in the listing rule included modifications to habitat associated with dredged material disposal, desnagging (removal of trees and their roots), and other navigation maintenance activities; incidental take by commercial fishermen; poor water quality associated with contamination by pesticides, heavy metals, and industrial contaminants; aquaculture and incidental or accidental introductions; and the Gulf sturgeon's slow growth and late maturation. The Gulf sturgeon listing rule and the Gulf Sturgeon Recovery/Management Plan (FWS *et al.*, 1995), which was approved by the Services and the Gulf States Marine Fisheries Commission, provide a more detailed discussion of the reasons for the species' decline and threats to surviving populations (available by request or at the FWS Internet site, see **ADDRESSES**).

The Gulf Sturgeon Recovery/Management Plan (FWS *et al.*, 1995) recommended that genetic studies be done to determine geographically distinct management units. Some work in this regard has been completed (Stabile *et al.*, 1996), but we have not formally adopted management units at this time. For purposes of this final rule, we have used the term subpopulation to subdivide the Gulf sturgeon population