

correct, and that NEPA does not apply to designation of critical habitat under the Act.

*Government-to-Government Relationship with Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands essential for the conservation of the Gulf sturgeon. Therefore, designation of critical habitat for the Gulf sturgeon has not been designated on Tribal lands.

**References Cited**

A list of references is available upon request (see **ADDRESSES**.)

**Authors**

The primary authors of this document are Patty Kelly, FWS, (850/769-0552, extension 228); and Stephania Bolden and Jennifer Lee, NMFS, (727/570-5312) (see **ADDRESSES** section).

**List of Subjects**

*50 CFR Part 17*

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

*50 CFR Part 226*

Endangered and threatened species.

**Regulation Promulgation**

For the reasons outlined in the preamble, we amend part 17, subchapter B of chapter I, and part 226, subchapter C of chapter II, title 50 of the Code of Federal Regulations, as follows:

**PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In §17.11(h), revise the entry for the "Sturgeon, Gulf" under "FISHES" in the List of Endangered and Threatened Wildlife to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*

(h) \* \* \*

Species		Historic Range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * * *							
FISHES:							
* * * * *							
Sturgeon, Gulf .....	<i>Acipenser oxyrinchus (=oxyrinchus) desotoi</i> .	U.S.A. (AL, FL, GA, LA, MS).	Entire .....	T	444	17.95(e), 226.214	17.44(v)
* * * * *							

3. Amend § 17.95(e) by adding critical habitat for the Gulf sturgeon (*Acipenser oxyrinchus desotoi*), in the same alphabetical order as the species occurs in § 17.11(h) to read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

\* \* \* \* \*

(e) Fishes. \* \* \*

Gulf Sturgeon (*Acipenser oxyrinchus desotoi*)

(1) Critical habitat units are depicted for Louisiana, Mississippi, Alabama, and Florida on the maps below.

(2) The primary constituent elements essential for the conservation of Gulf sturgeon are those habitat components that support feeding, resting, and sheltering, reproduction, migration, and physical features necessary for maintaining the natural processes that support these habitat components. The primary constituent elements include:

(i) Abundant prey items within riverine habitats for larval and juvenile life stages, and within estuarine and marine habitats and substrates for juvenile, subadult, and adult life stages;

(ii) Riverine spawning sites with substrates suitable for egg deposition and development, such as limestone outcrops and cut limestone banks, bedrock, large gravel or cobble beds, marl, soapstone or hard clay;

(iii) Riverine aggregation areas, also referred to as resting, holding, and staging areas, used by adult, subadult, and/or juveniles, generally, but not always, located in holes below normal riverbed depths, believed necessary for minimizing energy expenditures during fresh water residency and possibly for osmoregulatory functions;

(iv) A flow regime (*i.e.*, the magnitude, frequency, duration, seasonality, and rate-of-change of fresh water discharge over time) necessary for normal behavior, growth, and survival of all life stages in the riverine environment, including migration, breeding site selection, courtship, egg fertilization, resting, and staging; and necessary for maintaining spawning sites in suitable condition for egg attachment, egg sheltering, resting, and larvae staging;

(v) Water quality, including temperature, salinity, pH, hardness, turbidity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages;

(vi) Sediment quality, including texture and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages; and

(vii) Safe and unobstructed migratory pathways necessary for passage within and between riverine, estuarine, and marine habitats (*e.g.* a river unobstructed by any permanent structure, or a dammed river that still allows for passage).

(3) Gulf sturgeon is under the joint jurisdiction of the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS). The FWS will maintain primary responsibility for recovery actions and NMFS will assist in and continue to fund recovery actions pertaining to estuarine and marine habitats. In riverine units, the FWS will be