Constituent elements for all areas of critical habitat include permanent sources of water, water quality and quantity to satisfy requirements for all life history stages of the fish, a predatorfree habitat, adequate vegetative cover, and other environmental features that may be deemed necessary upon sitespecific evaluations.

Dated: September 18, 1995.

George T. Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

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## DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric** Administration

50 CFR Part 227 and 425

## **DEPARTMENT OF THE INTERIOR**

Fish and Wildlife Service

50 CFR Part 17 and 425 RIN 1018-AD 12

**Endangered and Threatened Species;** Proposed Threatened Status for a **Distinct Population Segment of** Anadromous Atlantic Salmon (Salmo salar) in Seven Maine Rivers

**AGENCIES: National Marine Fisheries** Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; and Fish and Wildlife Service (FWS), Interior. **ACTION:** Proposed rule.

**SUMMARY: The NMFS and the FWS** (collectively, the Services) have completed a status review of U.S. Atlantic salmon populations and identified a distinct population segment (DPS) in seven Maine rivers. Atlantic salmon in these rivers are likely to become endangered in the foreseeable future and therefore are being proposed for listing as threatened pursuant to the Endangered Species Act of 1973 (Act). This proposed rule includes joint regulations which apply all prohibitions of 50 CFR 17.31 to the DPS, but allows exceptions for incidental take under sections 4(d) and 10 of the Act. The special rule allows for a state plan, approved by the Services, to define the manner in which certain activities could be conducted without violating the Act. If this proposed listing is finalized, the protective measures of the Act will extend to the Atlantic salmon in the seven rivers, and a recovery plan will be prepared and implemented.

**DATES:** Comments from all interested parties must be received by December 28, 1995. Public hearing requests must be received by November 13, 1995. **ADDRESSES:** Comments and materials concerning this proposed rule and requests for public hearings should be sent to the Chief, Division of Endangered Species, FWS, 300 Westgate Center Drive, Hadley, Massachusetts 01035, or the Chief, Habitat and Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, Massachusetts 01930.

FOR FURTHER INFORMATION CONTACT: Paul Nickerson at 413-253-8615 or Mary Colligan at 508-281-9116.

## SUPPLEMENTARY INFORMATION:

Background

In October and November 1993, the Services received a petition under the Act to list anadromous Atlantic salmon as endangered. The Services published a notice of finding on January 20, 1994 (59 FR 3067), stating that the petition presented substantial information indicating that the requested action may be warranted. The notice also requested information from the public. A biological review team (Team) comprised of staff from the Services compiled and analyzed all available scientific information pertaining to the status of anadromous Atlantic salmon in the United States. The Team prepared a report entitled "Status Review for Anadromous Atlantic Salmon in the United States, January 1995" (Status Review). The Status Řeview provides detailed information and references used as the basis for this proposed rule. This Status Review was summarized in a March 17, 1995, finding (60 FR 14410) and is available upon request (see ADDRESSES). Further details from the Status Review are provided below. In the March 17, 1995, finding, the Services stated that they would promptly publish a proposed rule with appropriate listing actions.

## Life History

Anadromous Atlantic salmon have a relatively complex life history that extends from spawning and juvenile rearing in freshwater rivers to extensive feeding migration in the high seas. As a result, Atlantic salmon have several distinct phases in their life history that are identified by specific behavioral and physiological changes. Adult Atlantic salmon ascend the rivers of New England beginning in spring, a migration that peaks in June and continues into fall. Spawning occurs in late October through November. Good spawning habitat has a gravel substrate

and adequate water circulation to keep the eggs well oxygenated. Female anadromous Atlantic salmon produce between 1,500 and 1,800 eggs per kilogram (2.2 pounds) of body weight; on average each female Maine Atlantic salmon produces 7,200 eggs. Eggs hatch in late March or April and the resulting alevins remain in the redd for about six weeks and are nourished by their yolk sac. When the alevins emerge from the gravel about mid-May and begin feeding, they are referred to as fry. Fry become parr as vertical bars become visible on the sides of their bodies. In spring, when the parr are two or three years of age and 12.5 centimeters (cm) to 15 cm (5 to 6 inches) long, they undergo smoltification, a process where morphological and physiological changes prepare the smolt for the transition from fresh to salt water. Most smolts in New England rivers migrate to sea in May and begin their ocean feeding migration.

The marine life history of Atlantic salmon of U.S. origin is not as well understood as the freshwater phase. Scientists have discovered correlations between natural mortality in the marine environment and abiotic factors, particularly sea surface temperature. Atlantic salmon of U.S. origin are highly migratory, undertaking long marine migrations from the mouths of U.S. rivers to the northwest Atlantic Ocean where they are distributed seasonally over much of the region. Upon entry into the nearshore waters of Canada, the U.S. post-smolts become part of a mixture of stocks of Atlantic salmon from various North American streams. Data from commercial harvest indicate that post-smolts overwinter in the southern Labrador Sea and in the Bay of Fundy. Direct sampling during the winter months is needed to better understand post-smolt Atlantic salmon distribution in the North Atlantic. Most Atlantic salmon of U.S. origin spend two winters in the ocean before returning to fresh water for spawning. Those that return after only one year at sea are called grilse.

Consideration as a "Species" Under the

The Act defines species as "any species of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature." This definition allows for the recognition of distinct population segments at levels below taxonomically recognized species or subspecies. To qualify as a DPS, a population (or group of populations) of indigenous Atlantic salmon must be reproductively isolated from conspecific