

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		North River .....	At a point approximately 7.2 miles downstream of U.S. Route 50.	None	*822
			At a point approximately 3.3 miles upstream of U.S. Route 50.	None	*906
		South Branch Potomac River.	Upstream side of the Baltimore & Ohio Railroad bridge.	None	*559
			Approximately 2.84 miles upstream of confluence of Big Run.	None	*686

Maps available for inspection at the Hampshire County Courthouse, Main Street, Romney, West Virginia 26757.

Send comments to Mr. John D. Sitar, President of the Hampshire County Board of Commissioners, P.O. Box 806, Romney, West Virginia 26757.

West Virginia .....	Romney (Town), Hampshire County.	Big Run .....	At a point approximately 225 feet downstream of State Route 28.	None	*738
			At a point approximately 0.8 mile upstream of State Route 28.	None	*838

Maps available for inspection at the Romney Town Building, 260 School Street, Romney, West Virginia.

Send comments to The Honorable Hoy Shingleton, Mayor of the Town of Romey, 260 School Street, Romney, West Virginia 26757.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: October 16, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AG13**

**Endangered and Threatened Wildlife and Plants; Extension of Public Comment Period and Notice of Public Hearing on Proposed Critical Habitat for Wintering Piping Plovers**

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

**ACTION:** Proposed Rule; Extension of public comment period and notice of public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, provide notice that the public comment period on the proposed rule to designate critical habitat for wintering piping plovers (*Charadrius melodius*) is hereby extended, and that we will hold an additional public hearing on the proposal. Comments previously submitted during the comment period need not be resubmitted as they will be incorporated into the public record and will be fully considered in the final determination on the proposal.

**DATES:** The original comment period is scheduled to close on October 30, 2000. The comment period is hereby extended until November 24, 2000. We will hold a public hearing on the proposal on November 14, 2000. An informal public meeting will precede the hearing, beginning at 5:30 PM. The public hearing will run from 7 to 9 PM. Comments from all interested parties must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

**ADDRESSES:** The public hearing will be held in the Grand Ballroom at the Radisson Hotel, 500 Padre Boulevard, South Padre Island, Texas 78597. Written comments may be submitted to the Field Supervisor, Ecological Services Field Office, c/o TAMUCC, Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412; by facsimile at (361) 994-8262; or by email at winterplovercomments@fws.gov. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Allan Strand, Acting Field Supervisor, at the above address (telephone 361/994-9005).

**SUPPLEMENTARY INFORMATION:**

**Background**

The piping plover (*Charadrius melodius*) is a small North American shorebird that breeds in the Great Plains, Great Lakes, and Atlantic Coast states, and winters along the Atlantic and Gulf coasts. The piping plover on its wintering areas is listed as a

threatened species under the Endangered Species Act of 1973, as amended.

The U.S. Fish and Wildlife Service proposed critical habitat for wintering the piping plovers on July 6, 2000 (65 FR 41781). The proposal includes 146 areas along the coasts of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. This includes approximately 2,734 kilometers (1,699 miles) of shoreline along the Gulf and Atlantic coasts and along margins of interior bays, inlets, and lagoons.

Section 4(b)(2) of the Endangered Species Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species. Consequently, we have prepared and made available a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment at the above Internet and mailing addresses.

**Public Comments Solicited**

We solicit comments on all aspects of the critical habitat proposal, including the draft economic analysis. Our final determination on the proposed critical habitat will take into consideration

comments and any additional information received by the date specified above. All previous comments and information submitted during the comment period need not be resubmitted. The comment period is extended to November 24, 2000. Written comments may be submitted to the Field Supervisor at the above address.

The Endangered Species Act requires that at least one public hearing be held on this proposed rule if requested. Given the interest this proposal has generated, we have already held 10 public hearings throughout the proposed critical habitat range. However, significant public interest in the proposal has led us to schedule another public hearing (see **DATES** and **ADDRESSES**).

#### Author

The primary author of this notice is Steve Spangle, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

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

#### Geoffrey L. Haskett,

*Regional Director, Region 2, Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 229

[Docket No. 001011283-0283-01; I.D. 082200C]

RIN 0648-AO30

#### Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations; Change to the List of Exempted Waters and Request for Comments

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** NMFS proposes to amend the Harbor Porpoise Take Reduction Plan (HPTRP) to include Delaware Bay, landward of the 72 COLREGS line (International Regulations for Preventing Collisions at Sea, 1972), in the list of exempted waters. Members of the Mid-Atlantic Harbor Porpoise Take Reduction Team (MATRT) recommended by consensus that NMFS

redefine the list of exempted waters because harbor porpoise stranding and observer data did not justify subjecting fishers in Delaware Bay to the HPTRP gear restrictions. This proposed rule would exempt fishers operating in Delaware Bay from the HPTRP regulation. NMFS also requests comments on a recommendation from the MATRT to change the definition of small mesh gillnet.

**DATES:** Comments must be received at the appropriate address (see **ADDRESSES**) by November 27, 2000.

**ADDRESSES:** Comments on this proposed rule should be sent to Chief, Marine Mammal Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Gregg LaMontagne, NMFS, Northeast Region, 978-281-9291; Diane Borggaard, NMFS, Southeast Region, 727-570-5312; or Emily Hanson, NMFS Office of Protected Resources, 301-713-2322, ext. 101.

**SUPPLEMENTARY INFORMATION:** On December 2, 1998, NMFS published a final rule (63 FR 66464) implementing the HPTRP. Among other measures, the final rule identified those waters that are exempt from the HPTRP (50 CFR 229.34).

Section 118(f)(9) of the Marine Mammal Protection Act (MMPA) allows NMFS to issue regulations to implement a take reduction plan or amendments to a take reduction plan that, among other things, restricts fishing by time or area. In addition, NMFS' regulations implementing the HPTRP allow the Assistant Administrator for Fisheries, NOAA to revise the requirements of the plan through notification published in the **Federal Register** if NMFS determines that the boundary of a closed area is not appropriate.

The MATRT met on January 13 and 14, 2000, in Alexandria, Virginia. The MATRT recommended by consensus that the line defining the exempted waters of Delaware Bay be moved seaward from the published position of 39° 16.70'N 75° 14.6'W TO 39° 11.25'N 75° 23.90'W (southern point of Nantuxent Cove, NJ to the southern end of Kelly Island, Port Mahon, DE) and be redefined as a line from Cape May Canal to the Lewes Ferry Terminal. The MATRT concluded that there was no compelling reason for the existing position of the line in Delaware Bay, compared to other large bays in the Mid-Atlantic region (e.g., Chesapeake Bay and Long Island Sound), which typically establish the exempted waters as landward of the mouth of an inlet or the 72 COLREGS line. The MATRT believed that the existing line imposed

unnecessary requirements on the Delaware Bay fishing community because harbor porpoise stranding data and observer data did not justify imposing HPTRP gear restrictions on the fishers in Delaware Bay.

This proposed rule would redefine exempted waters for Delaware Bay to include all marine and tidal waters landward of the 72 COLREGS demarcation line, as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80. Using the COLREGS line is a slight deviation from the MATRT's consensus recommendation. The 72 COLREGS line was selected instead of the line recommended by the MATRT because the 72 COLREGS line is a well known and widely published line of demarcation. The actual difference between the COLREGS line and the MATRT recommended line is a seaward shift of approximately 1 nautical mile.

NMFS used observer data and harbor porpoise stranding data for Delaware and New Jersey to analyze the MATRT's consensus recommendation. Sea sampling observer data from inside the Delaware Bay for 1995 (23 observed hauls) and 1999 (12 observed hauls) were analyzed. During these 35 observed hauls no harbor porpoise interactions occurred. There has been 1 documented take of a harbor porpoise in a shad gillnet as explained in the Environmental Assessment prepared on November 24, 1998. Additional information was provided by a letter dated March 3, 2000, from the New Jersey Division of Fish and Wildlife, which stated that during 11 years of netting and tagging shad and striped bass in Delaware Bay there were no harbor porpoise interactions or sightings.

Stranding data from 1992-1999 revealed a total of 21 stranded harbor porpoise, with 17 stranded on the Delaware side of Delaware Bay and four stranded on the New Jersey side of Delaware Bay. The four New Jersey strandings exhibited no evidence of fishery interactions, although the animals were either emaciated or the cause of death could not be determined. Six of the 17 Delaware strandings displayed evidence of fishery interactions. The majority of the strandings occurred in the Lewes and Broadkill Beach areas near the mouth of Delaware Bay, suggesting that the strandings may have occurred as a result of interaction with dogfish and monkfish fishing activities outside of Delaware Bay, with the animals